

Chapter 21 - ZONING

FOOTNOTE(S):

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Charter reference— Council to create Zoning Board and Zoning Board of Appeals and regulate and restrict the height and number of stories of buildings and location and use of buildings for business or residence purposes, § 17. [\(Back\)](#)

Cross reference— The Architectural Review Board shall review all architectural plans and specifications upon the request of the Village Manager in connection with applications for building permits, § 2-64; sale of alcoholic beverages prohibited in filling stations, theaters, and within a certain distance of churches and schools, § 4-3; keeping of certain animals prohibited, § 5-2; building permit will not be issued until zoning requirements are complied with, § 6-2; satellite dish antennas, § 6-161 et seq.; flood damage prevention, ch. 8.5; marine structures, activities and ways, ch. 10; planning and development, ch. 14. [\(Back\)](#)

ARTICLE I. - IN GENERAL

Sec. 21-1. - Definitions and rules of construction.

- (a) For the purpose of this chapter, which shall be known as the Zoning Ordinance of Bal Harbour Village, Florida, words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used for" include the meaning "designed for"; the word "structure" includes the word "building"; the word "shall" is mandatory and not directory; and the word "lot" includes the words "plot" and "tract".
- (b) Words and terms not defined in this section shall be interpreted in accord with their normal dictionary meaning and customary usage.
- (c) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory Building means a subordinate Building or outbuilding, or a portion of the main Building, which is located on the same Lot or which is on a contiguous Lot, the use of which is clearly incidental to the use of the main Building.

Accessory Uses means uses customarily incident to the principal uses as permitted, but not including any commercial activity. Any Building, the use of which is not clearly accessory and incidental to the main occupancy, shall be considered as a separate occupancy and shall conform to the provisions of this chapter and chapter 6 for such occupancy.

Apartment Court means a group of two-story Buildings erected on one or more adjoining Lots and usually grouped around a common Yard or Court, each Building containing Apartment Units separated by a party wall and suitable for occupancy for a single Family and in which complete living facilities are provided.

Apartment Hotel means a Building, usually under resident supervision, made of three or more Apartment Units and Hotel Rooms, arranged with common corridors and exits and maintaining an inner lobby or foyer through which there is access to apartments and Rooms, and which may furnish dining room service primarily for Tenants.

Apartment House means a Building made of two or more Apartment Units or dwelling units so arranged that each unit has direct access, with or without common corridors, to a means of egress from the Building, and which may or may not maintain an inner lobby for its Tenants.

Apartment Unit means a Room or suite of Rooms occupied or suitable for occupancy as a residence for one Family, and in which complete living accommodations are provided. The existence of or the installation of a sink and/or cooking facilities within a Room or suite of Rooms shall be deemed sufficient to classify such Room or suite of Rooms as an apartment or dwelling unit.

Building means a Structure, the use of which demands a permanent location on the land, built for the support, shelter and enclosure of Persons, chattels, or movable or stationary Property of any kind; or anything attached to something having a permanent location on the land.

Building Lines means lines established by this chapter, beyond which a Building or any projection of a Building may not extend, except as specifically provided in this chapter.

Bulkhead or *Seawall* means a wall, constructed along the ocean, bay, Indian Creek or Baker's Haulover, to retain or resist lateral displacement of any material back of it. For the purpose of this chapter, the established Bulkhead, Seawall or erosion control line on the ocean, bay, Indian Creek and Baker's Haulover shall be regarded as a point of measurement for Setback requirements of all Structures fronting on these bodies of water.

Cabanas means permanent or portable bath cabins, together with only such accessories as boardwalks, wood slat walks or sundecks, terraces, rubbing rooms and toilet facilities, but not intended for sleeping or living quarters.

Carport means that portion of a Building or a canvas Structure under which vehicles may be driven for the purpose of providing shelter for either the vehicles or Persons, and which is open, full width, front and rear, in the direction of vehicle travel.

Club, Private, includes those associations and organizations of a fraternal or social character not operated or maintained for profit. Private Clubs shall not include casinos, nightclubs, or other institutions operated as a business.

Court means an open, unoccupied, unobstructed space, other than a Yard, on the same Lot as a Building.

Court, Inner, means a Court not extending to a Street or alley or to a front, side or rear Yard.

Court, Outer, means a Court extending to a Street or alley.

Density. In the Ocean Front District, Density refers to the total number of dwelling units and/or sleeping units capable of separate occupancy per gross acre of land. In other zoning districts, Density refers to the total number of dwelling units and/or sleeping units per platted Lot.

Development order means any order or agreement granting, denying, or granting with conditions an application for a development permit.

Development permit includes any building permit, zoning permit, subdivision approval, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

Dwelling, Multiple-Family, means a detached Building designed for occupancy otherwise than as a Single-Family Dwelling. The term "Multiple Dwelling" shall be understood to include Apartment Houses, Apartment Courts, and all other Family dwellings of similar character, but not to include Hotels or Apartment Hotels.

Dwelling, Single-Family, means a detached Building designed for or occupied exclusively by one Family only, living as a single housekeeping unit, together with such accessory accommodations as may be reasonably required for the proper operation of the premises as a single-family unit.

Erosion Control Line means a surveyed line established by the State and recorded in the public records of Dade County, Florida, which serves as the seaward boundary of Property in the Village.

Family means one or more Persons occupying premises and living together under one head as a single housekeeping unit. The term "Family" shall be deemed to include domestic or personal servants, but shall not include paying guests.

Floor Area Ratio (FAR) means the total gross floor area, including all floors but excluding mezzanines, elevator shafts, emergency stairwells, trash chutes, other vertical mechanical spaces and open balcony areas, measured to the outside of the Structure at each floor, and not including Parking Structures, on a Lot, divided by the Lot area. (For example, a Building containing 20,000 square feet of floor area on a zoning Lot of 10,000 square feet has a Floor Area Ratio of 2.0).

Garage, Private, means a garage in which no business, service or industry connected directly or indirectly with motor vehicles is carried on.

Garage, Storage, means a garage used only for the storage of motor vehicles, or where any such vehicles are stored or kept for remuneration.

Grade. When used in connection with the elevation of the ground, Grade means the average level of the natural ground adjacent to the exterior walls of a Building and shall be measured in feet above the finished grade of the center of the street on which the Lot fronts, or refers to an elevation above an established benchmark.

Groin means a Structure built of wood, steel or concrete on piling, running seaward, and serving the purpose of a breakwater to prevent beach erosion.

Gross Leasable Area (GLA) means the gross floor area minus the following floor area deductions: (a) elevator shafts and stairways; (b) public restrooms; (c) public lobbies, common mall areas, atriums and courtyards provided solely for pedestrian access to the building from the exterior, and/or for aesthetic enhancement or natural lighting purposes; (d) permanently designated corridors (i.e. not subject to relocation by the requirements of a specific lease); (e) parking, loading and mechanical/equipment areas; (f) service corridors; (g) storage areas; (h) back of house/office; (i) outdoor areas; and (j) license areas. License areas used for restaurant seating (excluding department store restaurants) that exceed 10% of the GLA of the Special Business Area shall be included in GLA for purposes of calculating parking requirements only, and shall not be included in the Floor Area Calculation. Gross Leasable Area can be moved, transferred, and relocated within the same development so long as it does not exceed the overall GLA approved for the development.

Guest House means a detached Structure or accessory Building intended to be occupied by nonpaying guests in connection with a Single-Family Dwelling, and equipped with sanitary plumbing facilities only; it shall provide Rooms and necessary appurtenances for the sleeping accommodations of nonpaying guests and their servants, but shall not provide cooking facilities. When used in connection with a Multiple-Family Dwelling, a Guest House means a detached dwelling occupied or intended to be occupied for hire and shall be considered an Apartment Unit, with complete living accommodations permitted.

Guest Room. In connection with a Single-Family Dwelling, Guest Room means a Room in the main or accessory Building, occupied or intended to be occupied by nonpaying guests, and equipped with sanitary plumbing facilities only. When used in connection with a Multiple-Family Dwelling, Guest Room means a Room in the main Building to be occupied by paying guests, and shall be considered the same as a Hotel Room.

Height of a Building or Structure means the vertical distance from the average Street Grade to the highest point of the coping of a flat roof or to the average height of the highest gable of a pitch or hip roof. Penthouses shall be considered in determining both the Height and the number of Stories of a Building. When a parapet wall is provided, the vertical distance shall be measured from the average Street Grade to the highest point of its parapet wall. Parapet walls shall not exceed four feet in height as measured from the highest point of the roof to the highest point of the parapet wall.

Hotel means a Building or premises where lodging or sleeping accommodations of more than 100 Rooms are provided.

Landscaping means various forms of live plant materials, including trees, shrubs, ground cover, flowers, grass or other similar materials. It shall not be construed to include hard materials such as concrete, stone, brick pavers or other similar treatments which may be utilized in conjunction with live plant materials.

Lot means a parcel of land fronting on a Street, drive, or waterway, which is or may be occupied by a Building and its necessary Buildings, including the open spaces required under this chapter, and which parcel of land is a matter of record in Dade County, Florida.

Lot, Corner, means a Lot abutting on two or more Streets at their intersection.

Lot Coverage means the percentage of Lot area that is covered by surfaces impervious to the penetration of water into the ground. For purposes of making maximum Lot Coverage calculations, brick paver surfaces will be counted as 50 percent of their area being impervious.

Lot Depth. The depth of a Lot is the distance, measured in the mean direction of the side lines of the Lot, from the midpoint of the Street Lot Line or Bulkhead line to the opposite main rear line of the Lot or, in the case of a three-sided Lot, to the intersection of the side lines.

Lot, Interior, means a Lot other than a Corner Lot.

Lot Lines means the lines bounding a Lot.

Lot, Through, means a Lot which abuts on two opposite ends on Streets or other similar public spaces.

Lot Width means the mean width of a Lot measured at right angles to its depth.

Mechanical Equipment includes but is not limited to air conditioning compressors and condensers, heating-ventilation equipment, electrical transformers, and pool or spa equipment, ground-mounted or on pads.

Mixed Occupancy means occupancy of a Building or land for more than one use.

Nonconforming Use means a Building or land occupied by a use that does not conform with the regulations or the use district in which it is situated.

Parking Lot or *Parking Area* means an open, unoccupied area of land used or required for use for parking of automobiles. Parking Lots or Areas shall be located or permitted in Multiple-Family, Business or Private Club Districts only.

Parking Structure means any Structure designed and used primarily or exclusively for parking or storage of automobiles or other motor vehicles.

Penthouse means any Structure above the main roof of a Building used for living, professional or business purposes. Penthouses may also be used for housing elevator machinery and water storage tanks. Penthouses, except when used for machinery or storage of water, are considered as an additional Story to the height of a Building and shall be considered in Height measurement.

Permitted Use means any purpose for which Buildings or other Structures or land may be arranged, designed, intended or occupied.

Porch means a roofed-over portion of a Building which is open or screened on one, two or three sides, one or two Stories in Height.

Portable Storage Unit means a transportable container designed for outdoor use which is not a "building" or "structure" as those terms are defined in this section, which is ordinarily rented or leased to owners or occupants of real property, is placed and removed by means of a truck or other motor vehicle, and is designed for the storage of property.

Porte-Cochere means a one-story Porch under which vehicles may be driven for the purpose of providing shelter for either the vehicles or Persons, and which is open, full width, front and rear, in the direction of vehicle travel, and open not less than 50 percent on the outer side.

Principal Building means a Building containing the principal use of the Lot on which the Building is situated.

Restaurant means every Building or part thereof and all outbuildings used in connection therewith, or any place or location kept, used, maintained as, advertised as, or held out to the public to be a place where food is prepared and/or served, either gratuitously or for pay.

Room means every compartment in any Building, including parlors, dining rooms, sleeping rooms, and enclosed Porches, kitchens, offices, stores, sample-rooms, and living rooms, but not including halls, bathrooms, closets, pantries, storage or equipment rooms or Cabanas.

Servants' Quarters. As accessory to multifamily occupancies, *Servants' Quarters* means accommodations for such number of servants and other employees as are required by the main occupancy, which accommodations may be detached and may or may not include separate cooking facilities. As accessory to single-family occupancies, *Servants' Quarters* means accommodations for such number of servants in personal service and/or for the maintenance of the premises as could reasonably be required, which accommodations may be detached but shall not have separate cooking facilities except in connection with Properties which have a ground area of 15,000 or more square feet.

Service Station means a Building where gasoline, oil and greases, batteries, tires, and automobile accessories are supplied and dispensed to the motor vehicle trade, and also where the following services are rendered, and none other:

- (1) Sale and servicing of sparkplugs and batteries.
- (2) Tire repair and servicing, but no recapping or vulcanizing.
- (3) Replacement of mufflers and tailpipes, water hoses, fan belts, brake fluid, lightbulbs, floor mats, seat covers and windshield wiper blades and arms, and replacement of grease retainers and wheel bearings.
- (4) Radiator cleaning and flushing.
- (5) Washing and polishing.
- (6) Greasing and lubrication.
- (7) Exchanging fuel pumps and installing fuel lines.
- (8) Minor servicing and replacement of carburetors.
- (9) Emergency wiring repairs.
- (10) Adjusting brakes, operating brake testing machines, and installing exchange brake shoes.
- (11) Tuning engines, with the exception of grinding valves, cleaning carbon, or removing the heads of engines and/or crankcases.

Setback means the minimum horizontal distance between the street line and the front line of the Building, or between the Bulkhead, Seawall or other established line and the Building, or between the side Lot Lines and the Building or any projection, except as otherwise provided in this chapter.

Special Business Improvement Area means any development located in the B Business District that is greater than 10 acres and governed by a Development Agreement approved by the Village Council.

Square Foot Content. In determining the minimum number of square feet of floor area described in this chapter for Buildings in certain sections of the Village, the following shall not be included in the Square Foot Content: open terraces; Porte-Cocheres; Carports; garages, either attached or detached; or Accessory Buildings. Notwithstanding the above, this definition is not intended to exempt such accessory uses from maximum lot coverage calculations.

Story means that portion of a Building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost Story shall be that portion of a Building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement is more than six feet above Grade, such basement shall be considered a Story. For the purposes of Section 80 of the Village Charter, it is hereby specified that there shall be no limitation on the height of a building "story," so long as the overall height limits specified within this Code are not exceeded. It is the specific intent of the Village Council that the 11 foot story height limitation contained in Section 80 of the Charter shall not be applicable in any zoning district as it is the intention of the Council that the height of a story shall be specified as "unlimited" so as to allow freedom of design for lofts,

mezzanines, vaulted ceilings, lobbies, assembly areas, mechanical rooms or spaces, multi-story units or clerestory areas.

Street means a thoroughfare which affords the principal means of access to abutting Property.

Street Grade means the average elevation of the centerline of the abutting Street as measured at the crown of the road.

Structural Alterations means any change, except for repairs or replacement, in the supporting members of a Building such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected, the use of which requires more or less permanent location on the land, or attached to something having a permanent location on the land.

Vacation Rental, Short-Term. A Short-Term Vacation Rental means any occupancy of a single-family, two-family, multi-family or townhouse dwelling unit for a period of time of not less than six consecutive calendar months, or such dwelling unit which is advertised or held out to the public as a place rented for a period of time of not less than six consecutive calendar months.

Xeriscape. A method of water conservation gained through the utilization of trees, shrubs, vines, plants, groundcover and turf grasses which are drought tolerant. The implementation of appropriate planning and design, use of soil amendments, efficient irrigation, practical turf grass, use of drought tolerant plants, mulches and appropriate maintenance results in reduced water consumption but still provides a very wide range of attractive landscaping alternatives.

Yard means the open space required adjacent to Lot Lines for the control of the Density of Building. Such Yards shall be unobstructed from the ground to the sky except as otherwise provided in this chapter.

(Ord. No. 169, §§ 3-1, 3-2, 6-29-74; Ord. No. 193, § 5, 7-26-77; Ord. No. 205, § 2(A)—(C), 11-14-78; Ord. No. 297, § 1, 10-28-86; Ord. No. 356, § 2, 11-13-90; Ord. No. 438, § 6, 4-20-99; Ord. No. 473, § 1, 6-18-02; Ord. No. 512, § 2, 10-17-06; Ord. No. 513, § 2, 11-14-06; Ord. No. 549, § 2, 5-31-2011; Ord. No. 564, § 2, 10-16-2012)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 21-2. - Interpretation of chapter.

In interpreting and applying the provisions of this chapter, such provisions shall be held as the minimum requirements for the promotion of the health, safety, morale or general welfare of the community. It is not intended by this chapter to interfere with, abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a higher standard upon the use of Buildings or premises or requires larger open spaces than are imposed or required by other ordinances, rules or regulations or by easements, covenants or agreements, the provisions of this chapter shall control.

(Ord. No. 169, § 10, 6-29-74)

Sec. 21-3. - Validity of chapter when specific provisions declared invalid.

Should any section, clause or provision of this chapter be declared by the court to be invalid, such declaration shall not affect the validity of the chapter as a whole or any part thereof, other than the part so declared to be invalid.

(Ord. No. 169, § 13-1, 6-29-74)

Sec. 21-4. - Ordinances conflicting with chapter repealed.

All ordinances or parts of ordinances in conflict with this chapter or inconsistent with the provisions of this chapter are hereby repealed. Further, that portion of the preamble of Ordinance No. 11 and that portion of section 2 of Ordinance No. 158 containing the language "and like authority is conferred upon Bal Harbour

Village by the provisions of Chapter 9837, No. 719, Special Acts, Laws of Florida, 1923," which was never intended to be a part of either ordinance, are hereby expressly repealed and this language is stricken from these ordinances; such language is also stricken from any and all other zoning ordinances of the Village and amendments thereto containing the quoted language.

(Ord. No. 169, § 14, 6-29-74)

Sec. 21-5. - Expiration of development orders.

- (a) *Time limitations:* With the exception of rezonings, within one year after the issuance of any development order as defined herein, the development order must be utilized in accordance with its terms. In the event that the development order is not utilized within that one year period, such development order shall automatically expire and shall be considered void and of no effect. A development order shall be deemed to have been utilized if: the use pursuant thereto shall have been established; a development permit has been issued and significantly acted upon to move the project forward, which such action shall include the preparation of construction drawings or obtaining permits from major regulating authorities such as the state Department of Environmental Protection, Miami-Dade County DERM, or the Miami-Dade County Fire Department; or if a development permit has been issued and the development of which such approval is an integral part is progressively and continuously carried to conclusion. The foregoing provision of this paragraph shall not apply if the development order expressly sets forth a specific time limitation.
- (b) *Prior development orders:* With the exception of rezonings, all development orders which have been granted prior to the effective date of this section shall be null and void and of no further force or effect if not utilized within one year after the effective date of this section, unless vested rights are demonstrated. The foregoing provision of this paragraph shall not apply if the development order expressly sets forth a specific time limitation.
- (c) *Vested rights:* Nothing in this section shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:
 - (1) A governmental act of development approval was obtained prior to the effective date of this section or prior to the effective date of an amendment to this section;
 - (2) Upon which the property owner has detrimentally relied, in good faith, by making substantial expenditures; and
 - (3) That it would be highly inequitable to deny the property owner the right to complete the development.
- (d) *Additional time:* If any additional time is desired by the owner of a development order, the owner of the property to which such development order is applicable may request an extension of time from the Council by filing an application for extension prior to its expiration. Upon demonstration of good cause by the owner, the Council may grant an extension.

(Ord. No. 513, § 2, 11-14-06)

Secs. 21-6—21-30. - Reserved.

ARTICLE II. - ADMINISTRATION

FOOTNOTE(S):

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Cross reference— Administration, ch. 2. [\(Back\)](#)

DIVISION 1. - GENERALLY

Sec. 21-31. - Enforcing officer.

It shall be the duty of the Building Official to enforce this chapter.

(Ord. No. 169, § 9-1, 6-29-74)

Sec. 21-32. - Certificate of occupancy.

- (a) A certificate of occupancy, either for the whole or part of a new Building or for alteration of an existing Building, shall be applied for coincident with the application for a building permit, and shall be issued within seven days after the erection or alteration of such Building or part shall have been completed in conformity with the provisions of this chapter.
- (b) A certificate of occupancy for the use of occupancy of vacant land, for a change in the use of land, or for a change in the use of an existing Building shall be applied for and issued before any such land shall be occupied or used or changed in use, and such certificate shall be issued within seven days after application has been made, provided such proposed use is in conformity with the provisions of this chapter.
- (c) No vacant land shall be occupied or used, and no Structure hereafter erected, constructed, reconstructed or structurally altered shall be used or changed in use until a certificate of occupancy has been issued by the Building Official.
- (d) A certificate of occupancy shall be issued for the purpose of maintaining, renewing, changing or extending a Nonconforming Use existing on June 29, 1974 and such certificate shall state that the use does not conform with the provisions of this chapter. For the purpose of complying with this requirement, the Building Official shall mail such certificate to the Occupants or Owners of all such Property within 30 days after the passage of this chapter.
- (e) A record of all certificates of occupancy shall be kept on file in the office of the Building Official, and a copy shall be furnished on request to any Person having a proprietary or tenancy interest in the Building or land affected.

(Ord. No. 169, § 9-2, 6-29-74)

Sec. 21-33. - Power of Board of Appeals to modify decisions of Building Official.

The Council of the Village shall have the power to approve, disapprove or modify any decision of the Building Official with respect to certificates of occupancy or with regard to any decision of the Building Official made in the course of the performance of his duties.

(Ord. No. 169, § 12, 6-29-74)

Secs. 21-34—21-50. - Reserved.

DIVISION 2. - AMENDMENTS; ZONING CHANGES; VARIANCES

Sec. 21-51. - Procedure for nonuse variances and for other public hearings—Application; fees.

- (a) All applications for nonuse variances or for other public hearings required under this Code shall be initiated by the filing of an application with the Village Building Official on a form prescribed by the Village Manager, executed and sworn to by the Owners of at least 80 percent of the Property described

in the application, by Tenants with the Owner's Written, sworn-to consent, or by duly authorized agents, such agent to be evidenced by a Written power of attorney if not a member of the Florida Bar.

- (b) The following fees shall be paid to the Village at the time of filing an application for a nonuse variance or for a public hearing and prior to any processing action being taken on such applications:

			<i>If in Violation</i>	
(1)	Applications for nonuse variances or for a public hearing involving single-family and multifamily residential dwellings with 12 or less individual living units:			
	a.	First variance request	\$ 150.00	\$ 300.00
	b.	Each additional nonuse variance from a section of this chapter included in the same hearing	25.00	50.00
	c.	Public hearings	150.00	300.00
(2)	Applications for nonuse variances from each section of this chapter or for a public hearing for all uses except those noted in subsection (b)(1) of this section:			
	a.	First variance request	250.00	500.00
	b.	Each additional nonuse variance request from a section of this chapter included in the same hearing	75.00	150.00
	c.	Public hearings	150.00	300.00

- (c) In addition to the basic application fees listed in subsection (b) of this section, applicants shall pay the Village for all reasonable costs, including advertising incurred by the Village, in processing the applications. These costs shall include but not be limited to costs for qualified experts such as professionals, engineers, economists, planners, attorneys and others deemed reasonably necessary for the proper and complete review and evaluation of the application. Applicants may be required to pay a reasonable cost advance for nonuse variances which will require substantial expert participation. All costs shall be paid to the Village before the building permit shall be issued.

- (d) If a zoning application is denied by the Village Council, the same application may not be refiled until a 12-month period from the date of the denial has lapsed.
- (e) Where an application for public hearing under this chapter has been filed with the Village and scheduled and noticed for public hearing before the Council, no such application may be withdrawn by the applicant without the approval of the Council and thereafter no application for public hearing may be filed on the same property or portion thereof within six months of the date of withdrawal without Council approval.

(Ord. No. 217, § 1, 7-29-80; Ord. No. 308, § 1, 9-15-87; Ord. No. 333, § 1, 7-18-89; Ord. No. 371, § 2, 4-21-92; Ord. No. 420, § 1, 12-17-96)

Sec. 21-52. - Same—Public hearing; notice of hearing.

When an application for a nonuse variance or for a public hearing has been filed under this division, it shall be promptly transmitted to the Village Council, together with the Written recommendation of the Village Manager or his designee, such recommendation to become a part of the hearing file and record and open for public inspection. No action on the application shall be taken by the Village Council until a public hearing has been held, upon at least 15 days' notice of the time and place of such hearing published in a newspaper of general circulation in the Village. A courtesy notice containing substantially the same information set forth in the published notice may be mailed to the Property Owners of record, their Tenants or their agents, within a radius of 300 feet of the Property described in the application or such greater distance as the Village Manager may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceedings taken under this division.

(Ord. No. 217, § 2, 7-29-80; Ord. No. 371, § 3, 4-21-92)

Sec. 21-53. - Same—Granting generally; authority of Council.

The Council is advised that the purpose of zoning and zoning regulations is to provide a plan and design to lessen the congestion in the highways; to secure safety from fire, panic and other dangers; to promote health, safety, morals, convenience and the general welfare; to provide adequate light and air; to prevent the overcrowding of land and water; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, with the view of giving reasonable consideration, among other things, to the character of the district or area and its peculiar suitability for particular uses and with a view to conserving the value of Buildings and Property and encouraging the most appropriate use of land and water throughout the Village.

- (a) *Business District.* The Village Council, following a public hearing, may grant a nonuse variance upon a showing by the applicant that the variance maintains the basic intent and purpose of the zoning and other land use regulations as set forth in this section. In considering an application for variance, the Village Council shall affirmatively determine whether the application meets all the following criteria:
 - (1) The granting of the variance must be compatible with the surrounding land uses and not be detrimental to the community as a whole.
 - (2) The granting of the variance must do substantial justice to the applicant as well as other Property Owners in the district.
 - (3) The variance can be granted in such fashion that the spirit of this chapter will be observed and public safety and welfare secured, without tending to create fire or other equally or more dangerous hazard or provoke excessive overcrowding or concentration of people or population.
 - (4) Compliance with the strict letter of the regulations will result in a practical difficulty so as to prevent the Owner from using the Property for a permitted purpose or render compliance unreasonably burdensome.
- (b) *All other Zoning Districts.*

- (1) In specific cases where the literal and strict enforcement of the applicable provisions of these zoning regulations, or other regulations or provisions of this Code, would result in undue or unnecessary hardship, the Village Council, following a public hearing, may grant a petition for a nonuse variance from said regulations as will provide substantial justice and not be contrary to the public interest reflected in said regulations, provided the Council makes the following findings:
 - a. The subject property has special conditions, not applying generally to other neighboring properties in the same zoning district, which occasion the necessity for the petitioned variance.
 - b. The development resulting from the granting of such variance shall be in harmony with the policies embodied within the Village Comprehensive Plan.
 - c. The granting of such variance shall be consistent with the general purpose and intent of the applicable zoning district regulations governing the property on which approval is granted.
 - d. The granting of such variance shall not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations nor hinder or discourage appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
 - e. That the literal and strict enforcement of the applicable provisions of the zoning regulations or other provisions of the Code of Bal Harbour Village, would result in undue or unnecessary hardship to the applicant.
 - f. That the granting of the requested variance will provide substantial justice and not be contrary to the public interest as reflected in the applicable regulations.
 - g. That the need for the variance does not arise from conditions which are personal to the owner but instead relate to the uniqueness of the property.
 - h. It is the responsibility of the applicant to submit evidence that addresses the above criteria.
- (2) The Council may require appropriate conditions, stipulations and safeguards as conditions of granting any variance. A violation of these conditions, stipulations and safeguards shall be deemed a violation of this Code.
- (3) A variance of the use or density provisions of these Zoning Regulations is prohibited.
- (4) Since variances run with the land and are not personal to the owner of the subject property, conditions personal to said owner and not relating to the uniqueness of the subject property, shall not be a valid basis for a variance. Further, the lack of objections from surrounding property owners, while persuasive, should be judged in light of the fact that all future surrounding property will be subject to the effects of the permitted variance.

(Ord. No. 217, § 3, 7-29-80; Ord. No. 439, § 1, 4-20-99)

Sec. 21-54. - Same—Imposition of conditions; expiration.

- (a) In granting any application for nonuse variance or in any developmental approval granted after a public hearing, the Village Council may prescribe any reasonable conditions, restrictions and limitations it deems desirable or necessary in order to maintain the integrity of the zoning district and the compatibility of the Property therewith in relation to the present and future development of the area concerned.
- (b) In addition, all nonuse variances granted by the Village Council shall automatically expire 12 months after the date of approval unless all required building permits have been issued and construction has begun in accordance with the plans based upon which the nonuse variance was granted. The Village

Council may grant extension of up to 12 months beyond the expiration date if the Property Owner has made a proper application for extension prior to the expiration of the nonuse variance.

(Ord. No. 217, § 4, 7-29-80; Ord. No. 315, § 1, 1-19-88; Ord. No. 371, § 4, 4-21-92)

Cross reference— During a building moratorium no applications for variances, special exceptions, zoning district changes, etc., shall be acted upon, § 6-63.

Sec. 21-55. - Decisions of Council to be by resolution; protests.

All actions taken by the Village Council pursuant to this division shall be by majority vote and resolution. In case, however, of a protest against such application by the Owners of record of 20 percent or more, either of any area of Lots included in such proposed change, or those immediately adjacent in the rear thereof extending 375 feet therefrom, or those directly opposite thereto extending 375 feet from the street frontage of such opposite Lot, such amendment shall not become effective except by the favorable vote of four-fifths of all members of the Village Council.

(Ord. No. 217, § 5, 7-29-80)

Secs. 21-56—21-75. - Reserved.

ARTICLE III. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 21-76. - Establishment of zoning districts.

In order to regulate and restrict the construction, reconstruction, alteration, location and use of Buildings, Structures, land and water, for trade, professions, residence or other purposes, and the location thereof, to regulate the size of Buildings and other Structures erected or altered, to regulate and determine the size and dimensions of Yards, Courts and other open spaces, and to regulate and limit the percentage of occupancy and the density of population, the Village is hereby divided into the following districts:

<i>Symbol</i>	<i>District</i>
R-1	Single Family Residential
R-2	Single Family Residential
PC	Private Club
RM-1	Multiple Family Residential
RM-2	Multiple Family Residential
RM-3	Multiple Family Residential
RM-4	Multiple Family Residential

RM-5	Multiple Family Residential
OF	Ocean Front
B	Business
P	Off-Street Parking

(Ord. No. 169, § 4-1, 6-29-74)

Sec. 21-77. - Designation of district boundaries.

The Village is hereby divided into the zoning districts specified in this division, and the boundaries of such districts shall be listed and designated by lot and block numbers or tract numbers as shown on the following recorded plats recorded in the public records of Dade County, Florida:

- (1) Ocean Front Section of Bay Harbor, recorded in Plat Book 44, at page 27, of the public records of Dade County, Florida.
- (2) Residential Section of Bal Harbour, recorded in Plat Book 44, at page 98, of the public records of Dade County, Florida.
- (3) Resubdivision of Lot 21, Block 12 and Tract F of the Residential Section of Bal Harbour, recorded in Plat Book 53, at page 15, of the public records of Dade County, Florida.
- (4) Bal Harbour Ocean Front Addition, being a resubdivision of Lots 17, 18, and 19 of Ocean Front Section of Bay Harbor, Plat Book 44, page 27; that portion of former public road known as Collins Avenue closed by Resolution No. 6429 of Dade County Commissioners, Deed Book 3838, at pages 83, 84 and 85; and all of Tract G of Residential Section of Bal Harbour, Plat Book 44, page 98, all recorded in the public records of Dade County, Florida, in Plat Book 57, page 68
- (5) Business Section of Bal Harbour, being a subdivision of Tract C and a portion of Tract D of the Residential Section of Bal Harbour, Plat Book 44, page 98, recorded in Plat Book 60, page 39, in the public records of Dade County, Florida.

(Ord. No. 169, § 4-2, 6-29-74)

Sec. 21-78. - District map.

- (a) The zoning districts provided for in this division are shown on a map designated as the Village of Bal Harbour Zoning District Map, dated and signed by the Mayor and Village Clerk. This map, with all notations, symbols, dimensions and references, is hereby adopted by reference and declared to be a part of this chapter.
- (b) The zoning district map shall be available for public inspection in the office of the Village Clerk, and any later alterations or amendments to the map shall be similarly dated, filed, and made available for public reference.

(Ord. No. 169, § 4-3, 6-29-74; Ord. No. 502, § 1, 12-20-05)

Secs. 21-79—21-95. - Reserved.

DIVISION 2. - R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

FOOTNOTE(S):

--- (3) ---

Cross reference— Unauthorized uses prohibited in Single Family Residential Districts, § 21-362. [\(Back\)](#)

Sec. 21-96. - Permitted uses.

No Building or land shall be used and no Building shall be erected or constructed on any Lot in the R-1 Single Family Residential District except for the following uses:

- (1) Single-family detached dwelling.
- (2) Parks, playgrounds or municipal buildings owned and operated by the Village.
- (3) Accessory Uses incidental to and customary to single-family detached dwellings. No Accessory Building, attached or detached from the main premises, shall be allowed that is susceptible of being occupied for residential purposes (except by domestic servants).
- (4) Vacation Rentals in accordance with section 21-363

(Ord. No. 169, § 6-1(a), 6-29-74; Ord. No. 297, § 5, 10-28-86; Ord. No. 298, § 1, 11-25-86; Ord. No. 549, § 4, 5-31-2011)

Sec. 21-97. - Boundary designation.

The boundary of the R-1 Single Family Residential District shall consist of the following lot and block numbers or tract numbers: Residential Section of Bal Harbour, Lots 5 to 24, inclusive, Block 1; Lots 1 to 20, inclusive, Block 12.

(Ord. No. 169, § 6-1(b), 6-29-74; Ord. No. 297, § 5, 10-28-86; Ord. No. 298, § 1, 11-25-86)

Sec. 21-98. - Minimum Lot area, Lot Widths and Yards.

The minimum Lot area, Lot Width and Yards in the R-1 Single Family Residential District shall be as follows: Lot sizes shall not be less than those dimensions established for the Residential Section of the Village as shown in section 21-77 and recorded in the public records of Dade County, Florida.

(Ord. No. 169, § 6-1(c), 6-29-74; Ord. No. 297, § 5, 10-28-86; Ord. No. 298, § 1, 11-25-86)

Sec. 21-99. - Maximum Density.

There shall not be more than one single-family detached dwelling per recorded Lot in the R-1 Single Family Residential District.

(Ord. No. 169, § 6-1(d), 6-29-74; Ord. No. 297, § 5, 10-28-86; Ord. No. 298, § 1, 11-25-86)

Sec. 21-100. - Maximum Building Height.

Buildings in the R-1 Single Family Residential District shall not exceed two stories in Height and shall not exceed 35 feet in Height.

(Ord. No. 169, § 6-1(e), 6-29-74; Ord. No. 297, § 5, 10-28-86; Ord. No. 298, § 1, 11-25-86; Ord. No. 438, § 6, 4-20-99)

Sec. 21-101. - Minimum floor area.

There shall not be less than 2,500 square feet of floor area, exclusive of garages, Porte-Cocheres, Carports, open terraces and/or similar features, in Buildings in the R-1 Single Family Residential District.

(Ord. No. 169, § 6-1(f), 6-29-74; Ord. No. 297, § 5, 10-28-86; Ord. No. 298, § 1, 11-25-86)

Sec. 21-102. - Setbacks.

- (a) No Building or any part thereof, except a second story balcony overhang of four feet, may be erected in the R-1 Single Family Residential District nearer to the Seawall than 40 feet, measured from the outside face thereof, or nearer to the rear line, which is the line abutting the Street, than 15 feet, except as stated hereinafter. The minimum side Setback shall be ten feet for a single-story construction up to 18 feet of Structure Height. For every additional foot in Height above 18 feet, there shall be one additional foot of side Setback for that portion of the building over 18 feet in height. The additional side setback requirement for buildings over 18 feet, provided by this Section, shall not prohibit up to one-third of the length of the side walls of such building from being situated in compliance with the minimum ten-foot side setback, but not fully conforming to the additional setback requirement. This provision shall serve to create an architectural opportunity for creative design approaches while promoting the beneficial purposes of building setbacks in the district.
- (b) Garages and Servant's Quarters may be constructed as a part of the residence Building. If a wall is erected along the rear line of the Lot (the outside face of such wall shall not be nearer than ten feet to the street line), then garages and Servant's Quarters not more than one Story in height may be constructed as a part of or abutting such wall. Such garage or Servant's Quarters may have a gateway entry from the Street. Otherwise, garages or Servant's Quarters must be located not nearer than 20 feet to the rear line of the Lot. No garage or Servant's Quarters shall exceed 15 feet in height.

(Ord. No. 169, § 6-1(g), 6-29-74; Ord. No. 297, § 5, 10-28-86; Ord. No. 298, § 1, 11-25-86; Ord. No. 438, § 6, 4-20-99)

Sec. 21-103. - Maximum Lot coverage.

The maximum Lot coverage of all impervious areas in the R-1 Single Family Residential District shall not exceed 50 percent of Lot area. The maximum Lot coverage by buildings and/or structures shall not exceed 40 percent. Other impervious areas, including, but not limited to, driveways, walkways, decks and similar areas shall not exceed ten percent of the Lot area. Lot coverage accomplished by a combination of structures together with other impervious areas shall be subject to a 50 percent total maximum of Lot coverage.

(Ord. No. 169, § 6-1(h), 6-29-74; Ord. No. 297, § 5, 10-28-86; Ord. No. 298, § 1, 11-25-86; Ord. No. 438, § 6, 4-20-99)

Sec. 21-104. - Garage Entry.

No garage in the R-1 Single Family Residential District shall have an entry directly facing the Street unless such entry is obscured by a decorative wall five feet in height supplemented by a landscaped screen, such screen to be placed between the Street and the garage entrance. Notwithstanding the above, all new residences and 100 percent reconstructed residences built subsequent to January 1, 1999, shall only be constructed with garage entries not directly facing Street(s).

(Ord. No. 438, § 6, 4-20-99)

Secs. 21-105—21-120. - Reserved.

DIVISION 3. - R-2 SINGLE FAMILY RESIDENTIAL DISTRICT

FOOTNOTE(S):

--- (4) ---

Cross reference— Unauthorized uses prohibited in Single Family Residential Districts, § 21-362. ([Back](#))

Sec. 21-121. - Permitted uses.

No Building or land shall be used and no Building shall be erected or constructed on any Lot in the R-2 Single Family Residential District except for the following uses: any use permitted in the R-1 Single Family Residential District.

(Ord. No. 169, § 6-2(a), 6-29-74; Ord. No. 297, § 6, 10-28-86; Ord. No. 298, § 2, 11-25-86)

Sec. 21-122. - Boundary designation.

The boundaries of the R-2 Single Family Residential District shall consist of the following lot and block or tract numbers: Residential Section of Bal Harbour, Lots 1 and 5 to 20, inclusive, Block 2; all the lots in Block 3; Lots 1 and 7 to 18, inclusive, in Block 4; all the lots in Blocks 5, 6, 9, 10, and 11.

(Ord. No. 169, § 6-2(b), 6-29-74; Ord. No. 297, § 6, 10-28-86; Ord. No. 298, § 2, 11-25-86)

Sec. 21-123. - Minimum Lot area, Lot Widths and Yards.

The minimum Lot area, Lot Width and Yards in the R-2 Single Family Residential District shall be as follows: Lot sizes shall not be less than those dimensions established for the Residential Section of the Village as shown in section 21-77 and recorded in the public records of Dade County, Florida.

(Ord. No. 169, § 6-2(c), 6-29-74; Ord. No. 297, § 6, 10-28-86; Ord. No. 298, § 2, 11-25-86)

Sec. 21-124. - Maximum Density.

There shall not be more than one single-family detached dwelling per recorded Lot in the R-2 Single Family Residential District.

(Ord. No. 169, § 6-2(d), 6-29-74; Ord. No. 297, § 6, 10-28-86; Ord. No. 298, § 2, 11-25-86)

Sec. 21-125. - Maximum Building Height.

Buildings in the R-2 Single Family Residential District shall not exceed two stories in Height and shall not exceed 30 feet in Height.

(Ord. No. 169, § 6-2(e), 6-29-74; Ord. No. 297, § 6, 10-28-86; Ord. No. 298, § 2, 11-25-86)

Sec. 21-126. - Minimum floor area.

There shall not be less than 1,800 square feet of floor area, exclusive of garages, Porte-Cocheres, Carports, open terraces and/or similar features, in Buildings in the R-2 Single Family Residential District.

(Ord. No. 169, § 6-2(f), 6-29-74; Ord. No. 297, § 6, 10-28-86; Ord. No. 298, § 2, 11-25-86)

Sec. 21-127. - Setbacks.

- (a) No Building or any part thereof may be erected in the R-2 Single Family Residential District beyond the front Setback lines of 30 feet as shown on the recorded plat of the Residential Section of Bal Harbour, or nearer than 15 feet to the rear Lot Lines. For every additional foot in Height of the Building above 18 feet, there shall be one additional foot of rear Setback for that portion of the building over 18 feet in height. Notwithstanding the above, the rear setback requirements provided by this Section shall not prohibit up to one-fourth of the length of the outside walls of any building, regardless of Height, along the rear property lines from being situated not less than 15 feet from the rear property line. This provision shall serve to create an architectural opportunity for creative design approaches while promoting the beneficial purposes of building setbacks in the District.
- (b) The minimum side Setback shall be ten feet for single-story construction up to 18 feet of structure Height. For every additional foot in Height above 18 feet, there shall be one additional foot of side Setback for that portion of the building over 18 feet in height. The additional side setback requirement for buildings over 18 feet, provided by this Section, shall not prohibit up to one-third of the length of the side walls of such building from being situated in compliance with the minimum ten-foot side

setback, but not fully conforming to the additional setback requirement. This provision shall serve to create an architectural opportunity for creative design approaches while promoting the beneficial purposes of building setbacks in the district.

- (c) Notwithstanding the above, no swimming pool may be constructed within ten feet of the rear and side Setback lines. In addition, on corner lots no swimming pool may be constructed nearer than 20 feet or 30 feet to the side Lot Lines, as shown on the recorded plat of the Residential Section of Bal Harbour. Pool decks shall not be included for purposes of determining the Setbacks.

(Ord. No. 169, § 6-2(g), 6-29-74; Ord. No. 297, § 6, 10-28-86; Ord. No. 298, § 2, 11-25-86; Ord. No. 438, § 6, 4-20-99; Ord. No. 451, § 1, 6-20-00)

Sec. 21-128. - Garage entry.

No garage in the R-2 Single Family Residential District shall have an entry directly facing the Street unless such entry is obscured by a landscaped screen made possible through the use of circular driveways, such screen to be placed between the Street and the garage entrance. Notwithstanding the above, all new and 100 percent reconstructed residences, built subsequent to January 1, 1999, shall not be constructed with garage entries directly facing the Street.

(Ord. No. 169, § 6-2(h), 6-29-74; Ord. No. 297, § 6, 10-28-86; Ord. No. 298, § 2, 11-25-86; Ord. No. 438, § 6, 4-20-99)

Sec. 21-129. - Maximum Lot coverage.

Maximum Lot coverage in the R-2 Single Family Residential District shall not exceed 50 percent of Lot area. The maximum Lot coverage by buildings and/or structures shall not exceed 40 percent. Other impervious areas, including, but not limited to, driveways, walkways, decks and similar areas shall not exceed ten percent of the Lot area. Lot coverage accomplished by a combination of structures together with other impervious areas shall be subject to a 50 percent total maximum of Lot coverage.

(Ord. No. 169, § 6-2(i), 6-29-74; Ord. No. 297, § 6, 10-28-86; Ord. No. 298, § 2, 11-25-86; Ord. No. 438, § 6, 4-20-99)

Secs. 21-130—21-145. - Reserved.

DIVISION 4. - PC PRIVATE CLUB DISTRICT

Sec. 21-146. - Permitted uses.

No Building or land shall be used and no Building shall be erected or constructed on any Lot in the PC Private Club District except for the following uses:

- (1) Any use permitted in the R-1 Single Family Residential District.
- (2) Private Recreation Facility. Private Recreation Facility shall mean a noncommercial, private facility designed to provide recreational and social activities for its users. The improvements within such a facility may include boat docks, tennis courts, swimming pools, and Buildings (including a clubhouse) which are directly related to and supportive of the recreational and social activities. A clubhouse may include dining rooms, exercise rooms, card rooms, lounges and similar facilities designed to serve the private needs of the users.

(Ord. No. 169, § 6-3(a), 6-29-74; Ord. No. 404, § 1, 10-24-95)

Sec. 21-146.1. - Development standards.

- (a) *Single-Family Residential Uses.* Where land in the PC Private Club District is used for R-1 Single-Family Residential District uses, the standards for development including, but not limited to, maximum density, maximum building height, minimum floor area, setbacks, and maximum Lot coverage shall be those standards as set forth in sections 21-99 through 21-103, inclusive, relating to the R-1 Single-Family Residential District. Notwithstanding the foregoing, the minimum Lot area shall not be less than 17,500 square feet and the minimum Lot width shall not be less than 100 feet at the front setback line.
- (b) *Private Recreation Facility Uses.* Where land located in the PC Private Club District is used for a Private Recreational Facility, such land shall be subject to the following development standards:
 - (1) *Setbacks:* The principal Building(s) or any part thereof shall be set back a minimum of (a) 100 feet from the front Lot Line; (b) 50 feet from each side Lot Line; and (c) 50 feet from the rear Lot Line or the Erosion Control Line, whichever is greater. All Buildings and Structures other than principal Building(s), including swimming pools and tennis courts, or any part thereof shall be set back a minimum of (a) 25 feet from the front Lot Line; (b) 25 feet from each side Lot Line; and (c) 25 feet from the rear Lot Line or the Erosion Control Line, whichever is greater.
 - (2) *Height:* No Building or Structure shall exceed two stories in height and shall not exceed 35 feet in Height.
 - (3) *Lot Coverage:* Buildings and Structures shall not exceed 25 percent of the total Lot area. For purposes of this section, total Lot area shall not include any bodies of water.
 - (4) *FAR:* The Floor Area Ratio shall not exceed 0.25. For purposes of calculating the Floor Area Ratio, the total Lot area shall not include any bodies of water.
 - (5) *Landscaping:*
 - a. Not less than 40 percent of the total Lot area shall be maintained as landscaped open space. For purposes of this section, total Lot area shall not include any bodies of water.
 - b. All Lot areas not occupied by principal Building(s) and Structure(s), required off-street parking and loading, access and circulation facilities or other required areas, including roof surface of enclosed Parking Structures, shall be landscaped by lawns, trees, shrubs, ground cover and other appropriate materials or as otherwise specified in this Code.
 - c. Within the front, side, and rear Setback areas and between any Structure or vehicular use areas on the Lot, there shall be a fully landscaped buffer area for a minimum depth of 25 feet as measured from the Lot, Erosion Control Line, or such Structure or vehicular use area, as applicable.

(Ord. No. 404, § 2, 10-24-95; Ord. No. 512, § 2, 10-17-06)

Sec. 21-146.2. - Site plan approval.

The development of any new Private Recreation Facility or alteration, addition or modification to an existing Private Recreation Facility may only be permitted in accordance with a site plan (including a landscaping plan) approved by the Village Council after a public hearing and upon a showing that the proposed facilities:

- (1) Comply with each of the criteria listed in section 21-146.1 above.
- (2) Are designed and scaled to be compatible with adjacent development(s) and the surrounding neighborhood.
- (3) Will not create excessive noise, traffic, illumination or other noxious impacts.

In connection with the approval of the site plan the Village Council may impose reasonable limitations on the use (including hours of operation) to ensure the compatibility of the use with adjacent development(s) and the surrounding neighborhood.

(Ord. No. 404, § 2, 10-24-95)

Sec. 21-147. - Boundary designation.

The boundary of the PC Private Club District shall consist of the following lot and block or tract numbers: Tract E of the Residential Section of Bal Harbour.

(Ord. No. 169, § 6-3(b), 6-29-74; Ord. No. 437, § 3, 10-17-00)

Sec. 21-148. - Protection of sea turtles during nesting season.

The disturbance of sea turtle nests is prohibited, unless conducted by authorized persons in the duty of sea turtle protection. During nesting seasons, beach cleaning activities are not to come within a distance which will disturb the function of the nests. Where feasible, the source of emission of outside light from structures will not be directly visible from turtle nesting areas.

(Ord. No. 356, § 5(6-3(b)), 11-13-90)

Sec. 21-149. - Protection of sea turtles during beach renourishment.

Beach renourishment projects shall protect sea turtle nesting areas by limiting construction in such areas to fall, winter and spring months, or by permitting the collection of eggs from identified nests by authorized personnel for incubation, hatching and subsequent release of hatchlings.

(Ord. No. 356, § 5(6-3(c)), 11-13-90)

Secs. 21-150—21-165. - Reserved.

DIVISION 5. - RM-1 MULTIPLE FAMILY RESIDENTIAL DISTRICT

FOOTNOTE(S):

--- (5) ---

Cross reference— Sign regulations for Multiple Family Districts, § 15-36. [\(Back\)](#)

Sec. 21-166. - Permitted uses.

No Building or land shall be used and no Building shall be erected or constructed on any Lot in the RM-1 Multiple Family Residential District except for the following uses:

- (1) Multiple-Family Dwellings or apartment buildings.
- (2) Apartment Courts.
- (3) Accessory Buildings.
- (4) Vacation Rentals in accordance with section 21-363

(Ord. No. 169, § 6-4(a), 6-29-74; Ord. No. 549, § 5, 5-31-2011)

Sec. 21-167. - Boundary designation.

The boundary of the RM-1 Multiple Family Residential District shall consist of the following lot and block or tract numbers: Lot 3 of Block 2, and Lots 3, 4 and 5 of Block 4, of the Residential Section of Bal Harbour.

(Ord. No. 169, § 6-4(b), 6-29-74)

Sec. 21-168. - Minimum Lot area, Lot Width and Yards.

The minimum Lot area, Lot Width and Yards in the RM-1 Multiple Family Residential District shall be as follows: Lot sizes shall not be less than those dimensions established for the Residential Section of the Village, as shown in section 21-77 and recorded in the public records of Dade County, Florida.

(Ord. No. 169, § 6-4(c), 6-29-74)

Sec. 21-169. - Maximum Density.

There shall not be more than eight dwelling units per platted Lot in the RM-1 Multiple Family Residential District.

(Ord. No. 169, § 6-4(d), 6-29-74)

Sec. 21-170. - Maximum Building Height.

Buildings in the RM-1 Multiple Family Residential District shall not exceed two Stories in Height and shall not exceed 30 feet in height.

(Ord. No. 169, § 6-4(e), 6-29-74; Ord. No. 512, § 2, 10-17-06)

Sec. 21-171. - Minimum floor area.

There shall not be less than 600 square feet of floor area for each Apartment Unit in the RM-1 Multiple Family Residential District, and not less than 1,800 square feet of floor area in a Single-Family Dwelling.

(Ord. No. 169, § 6-4(f), 6-29-74)

Sec. 21-172. - Setbacks.

No Building or any part thereof may be erected in the RM-1 Multiple Family Residential District beyond the front Setback lines as shown on the recorded plat of the Residential Section of Bal Harbour, or nearer than ten feet to the side or rear lines.

(Ord. No. 169, § 6-4(g), 6-29-74)

Secs. 21-173—21-190. - Reserved.

DIVISION 6. - RM-2 MULTIPLE FAMILY RESIDENTIAL DISTRICT

Sec. 21-191. - Permitted uses.

No Building or land shall be used and no Building shall be erected or constructed on any Lot in the RM-2 Multiple Family Residential District except for the following uses:

- (1) Multiple-Family Dwellings or apartment buildings.
- (2) Apartment Courts.
- (3) Accessory Buildings.
- (4) Vacation Rentals in accordance with section 21-363

(Ord. No. 169, § 6-5(a), 6-29-74; Ord. No. 549, § 5, 5-31-2011)

Sec. 21-192. - Boundary designation.

The boundary of the RM-2 Multiple Family Residential District shall consist of Lots 2 and 4 of Block 2, and Lot 6 of Block 4 of the Residential Section of Bal Harbour.

(Ord. No. 169, § 6-5(b), 6-29-74)

Sec. 21-193. - Minimum Lot area, Lot Width and Yards.

The minimum Lot area, Lot Width and Yards in the RM-2 Multiple Family Residential District shall be as follows: Lot sizes shall not be less than those dimensions established for the Residential Section of the Village, as shown in section 21-77 and recorded in the public records of Dade County, Florida.

(Ord. No. 169, § 6-5(c), 6-29-74)

Sec. 21-194. - Maximum Density.

There shall not be more than ten dwelling units per platted Lot in the RM-2 Multiple Family Residential District.

(Ord. No. 169, § 6-5(d), 6-29-74)

Sec. 21-195. - Maximum Building Height.

Buildings in the RM-2 Multiple Family Residential District shall not exceed two Stories in Height and shall not exceed 30 feet in height.

(Ord. No. 169, § 6-5(e), 6-29-74; Ord. No. 512, § 2, 10-17-06)

Sec. 21-196. - Minimum floor area.

There shall not be less than 600 square feet of floor area for each Apartment Unit in the RM-2 Multiple Family Residential District, and not less than 1,800 square feet of floor area in a Single-Family Dwelling.

(Ord. No. 169, § 6-5(f), 6-29-74)

Sec. 21-197. - Setbacks.

No Building or any part thereof may be erected in the RM-2 Multiple Family Residential District beyond the front Setback lines as shown on the recorded plat of the Residential Section of Bal Harbour, or nearer than ten feet to the side or rear lines.

(Ord. No. 169, § 6-5(g), 6-29-74)

Secs. 21-198—21-210. - Reserved.

DIVISION 7. - RM-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT

Sec. 21-211. - Permitted uses.

No Building or land shall be used and no building shall be erected or constructed on any Lot in the RM-3 Multiple Family Residential District except for the following uses:

- (1) Multiple-Family Dwellings or apartment buildings.
- (2) Apartment Courts.
- (3) Accessory Buildings.
- (4) Vacation Rentals in accordance with section 21-363

(Ord. No. 169, § 6-6(a), 6-29-74; Ord. No. 218, § 1, 8-26-80; Ord. No. 549, § 5, 5-31-2011)

Sec. 21-212. - Boundary designation.

The boundary of the RM-3 Multiple Family Residential District shall consist of the following lot and block or tract numbers: Lot 2 in Block 4 of the Residential Section of Bal Harbour.

(Ord. No. 169, § 6-6(b), 6-29-74; Ord. No. 218, § 1, 8-26-80)

Sec. 21-213. - Minimum Lot area, Lot Width and Yards.

The minimum Lot area, Lot Width and Yards in the RM-3 Multiple Family Residential District shall be as follows: Lot sizes shall not be less than those dimensions established for the Residential Section of the Village, as shown in section 21-77 and recorded in the public records of Dade County, Florida.

(Ord. No. 169, § 6-6(c), 6-29-74; Ord. No. 218, § 1, 8-26-80)

Sec. 21-214. - Maximum Density.

There shall not be more than 12 dwelling units per platted Lot in the RM-3 Multiple Family Residential District.

(Ord. No. 169, § 6-6(d), 6-29-74; Ord. No. 218, § 1, 8-26-80)

Sec. 21-215. - Maximum Building Height.

Buildings in the RM-3 Multiple Family Residential District shall not exceed two Stories in Height and shall not exceed 30 feet in height.

(Ord. No. 169, § 6-6(e), 6-29-74; Ord. No. 512, § 2, 10-17-06)

Sec. 21-216. - Minimum floor area.

There shall not be less than 600 square feet of floor area for each Apartment Unit in the RM-3 Multiple Family Residential District, and not less than 1,800 square feet of floor area in a Single-Family Dwelling.

(Ord. No. 169, § 6-6(f), 6-29-74; Ord. No. 218, § 1, 8-26-80)

Sec. 21-217. - Setbacks.

No Building or any part thereof may be erected in the RM-3 Multiple Family Residential District beyond the front Setback lines as shown on the recorded plat of the Residential Section of Bal Harbour, or nearer than ten feet to the side or rear lines.

(Ord. No. 169, § 6-6(g), 6-29-74; Ord. No. 218, § 1, 8-26-80)

Secs. 21-218—21-235. - Reserved.

DIVISION 8. - RM-4 MULTIPLE FAMILY RESIDENTIAL DISTRICT

Sec. 21-236. - Permitted uses.

No Building or land shall be used and no Building shall be erected or constructed on any lot in the RM-4 Multiple Family Residential District except for the following uses:

- (1) Multiple-Family Dwellings or apartment buildings.
- (2) Apartment Courts.
- (3) Accessory Buildings.
- (4) Vacation Rentals in accordance with section 21-363

(Ord. No. 169, § 6-7(a), 6-29-74; Ord. No. 218, § 2, 8-26-80; Ord. No. 549, § 5, 5-31-2011)

Sec. 21-237. - Boundary designation.

The boundary of the RM-4 Multiple Family Residential District shall consist of the following lot and block or tract numbers: Lots 3 and 4 of Block 1 of the Residential Section of Bal Harbour.

(Ord. No. 169, § 6-7(b), 6-29-74; Ord. No. 218, § 2, 8-26-80)

Sec. 21-238. - Minimum Lot area, Lot Width and Yards.

The minimum Lot area, Lot Width and Yards in the RM-4 Multiple Family Residential District shall be as follows: Lot sizes shall not be less than those dimensions established for the Residential Section of the Village, as shown in section 21-77 and recorded in the public records of Dade County, Florida.

(Ord. No. 169, § 6-7(c), 6-29-74; Ord. No. 218, § 2, 8-26-80)

Sec. 21-239. - Maximum Density.

There shall not be more than 12 dwelling units per platted Lot in the RM-4 Multiple Family Residential District.

(Ord. No. 169, § 6-7(d), 6-29-74; Ord. No. 218, § 2, 8-26-80)

Sec. 21-240. - Maximum Building Height.

Buildings in the RM-4 Multiple Family Residential District shall not exceed two Stories in Height and shall not exceed 35 feet in height.

(Ord. No. 169, § 6-7(e), 6-29-74; Ord. No. 512, § 2, 10-17-06)

Sec. 21-241. - Minimum floor area.

There shall not be less than 600 square feet of floor area for each Apartment Unit in the RM-4 Multiple Family Residential District, and not less than 2,500 square feet of floor area in a Single-Family Dwelling.

(Ord. No. 169, § 6-7(f), 6-29-74; Ord. No. 218, § 2, 8-26-80)

Sec. 21-242. - Setbacks.

No Building or any part thereof, except a second or third story balcony overhang of four feet, may be erected on Lots in the RM-4 Multiple Family Residential District nearer to the front line, which is the waterfront, than 40 feet, or nearer to the side lines or to the rear or street line than ten feet, as shown on the recorded plat of the Residential Section of Bal Harbour.

(Ord. No. 169, § 6-7(g), 6-29-74; Ord. No. 218, § 2, 8-26-80)

Secs. 21-243—21-260. - Reserved.

DIVISION 9. - RM-5 MULTIPLE FAMILY RESIDENTIAL DISTRICT

Sec. 21-261. - Permitted uses.

No Building or land shall be used and no Building shall be erected or constructed on any Lot in the RM-5 Multiple Family Residential District except for the following uses:

- (1) Multiple-Family Dwellings or apartment buildings.

- (2) Apartment Courts.
- (3) Accessory Buildings.
- (4) Parks, playgrounds, municipal buildings and Parking Lots owned and operated by the Village.
- (5) Vacation Rentals in accordance with section 21-363

(Ord. No. 169, § 6-8(a), 6-29-74; Ord. No. 549, § 5, 5-31-2011; Ord. No. 559, § 2, 5-15-2012)

Editor's note—

Ord. No. 559, § 3, adopted May 15, 2012, provides that this ordinance shall not apply to an Apartment Hotel use which was a legal, operating use in the Village on the date of first reading of this ordinance. This ordinance shall also not apply to an expansion of such existing Apartment Hotel use onto one or more parcels, provided that such expanded use: (1) shares common management control with the existing Apartment Hotel use; (2) includes property which is abutting or separated only by a road right-of-way from the parcel on which the existing Apartment Hotel use is located; and (3) received approval as part of a Village Certificate of Appropriateness prior to January 1, 2012.

Sec. 21-262. - Boundary designation.

The boundary of the RM-5 Multiple Family Residential District shall consist of the following lot and block or tract numbers: Lots 1 to 10, inclusive, Block 7; Lots 1 to 5, inclusive, Block 8; Lot 1, Block 8A; Lots 1 to 3, inclusive, Block 12A in the Residential Section of Bal Harbour.

(Ord. No. 169, § 6-8(b), 6-29-74)

Sec. 21-263. - Minimum Lot area, Lot Width and Yards.

The minimum Lot area, Lot Width and yards in the RM-5 Multiple Family Residential District shall be as follows: Lot sizes shall not be less than those dimensions established for the Residential Section of the Village, as shown in section 21-77 and recorded in the public records of Dade County, Florida.

(Ord. No. 169, § 6-8(c), 6-29-74)

Sec. 21-264. - Maximum Density.

There shall not be more than 24 dwelling units per platted Lot in the RM-5 Multiple Family Residential District.

(Ord. No. 169, § 6-8(d), 6-29-74)

Sec. 21-265. - Maximum Building Height.

Buildings in the RM-5 Multiple Family Residential District shall not exceed three Stories in Height and shall not exceed 45 feet in height.

(Ord. No. 169, § 6-8(e), 6-29-74; Ord. No. 512, § 2, 10-17-06)

Sec. 21-266. - Minimum floor area.

- (a) The minimum floor area for any Multiple-Family Dwelling unit in the RM-5 Multiple Family Residential District shall be not less than 600 square feet of floor area for each Apartment Unit.
- (b) The minimum floor area for any Single-Family Dwelling unit erected on Lots 1 to 3, inclusive, Block 12A, shall be not less than 2,500 square feet of floor area for each Single-Family Dwelling.
- (c) The minimum floor area for any Single-Family Dwelling erected on any other platted Lot in the district shall be not less than 3,000 square feet of floor area for each Single-Family Dwelling.

(Ord. No. 169, § 6-8(f), 6-29-74)

Sec. 21-267. - Setbacks.

No Building or any part thereof, except a second and third story balcony overhang of four feet, may be erected in the RM-5 Multiple Family Residential District nearer to the front line, which is Bal Harbour Boulevard, than 50 feet, or as otherwise shown on the recorded plats of the Residential Section of Bal Harbour, and Resubdivision of Lot 21, Block 12 and Tract F of the Residential Section of Bal Harbour, or nearer to the side lines than 25 feet, or nearer to the rear lines than 50 feet, except that one-story garages and/or Servants' Quarters may be erected within the rear 30 feet of the Lot, but not nearer than five feet to the side or rear lines. All lots in the RM-5 Multiple Family Residential District except Lots 1 to 3, inclusive, Block 12A, shall be regarded as fronting on Bal Harbour Boulevard. Lots 1 to 3, inclusive, Block 12A, shall be regarded as fronting on Baker's Haulover Inlet.

(Ord. No. 169, § 6-8(g), 6-29-74)

Secs. 21-268—21-278. - Reserved.

DIVISION 10. - OF OCEAN FRONT DISTRICT

Sec. 21-279. - Purpose of District.

The purpose of the OF Ocean Front District is to provide land development regulations for those lands identified as RH Residential High Density on the Village's adopted Comprehensive Plan Future Land Use Map. Parcels so zoned shall be located between Collins Avenue and the eastern Lot Lines of those parcels of land depicted on the plat entitled "Ocean Front Section of Bay Harbour," recorded in Plat Book 44, at Page 27, of the Public Records of Dade County, Florida and those parcels of land depicted on the plat entitled "Bal Harbour Ocean Front Addition," recorded in Plat Book 57, at Page 68, of the Public Records of Dade County, Florida. The intended development characteristics include primarily high-rise luxury residential development with ancillary commercial and recreational uses. Additionally, resort-type development such as Hotels are also intended which may include convention facilities. The recorded subdivision plats contain Building restriction lines that were intended to establish the general position of Buildings on the Lots. Development requests should generally follow the Setback of existing construction, development intensities identified in the Comprehensive Plan and these regulations and Building heights.

(Ord. No. 473, § 2, 6-18-02)

Sec. 21-280. - Definition of Balcony and Porch Enclosure.

For purposes of this division, the phrase "Balcony or Porch Enclosure" means exterior enclosures affixed to Balconies and Porches, made of screening, glass, aluminum, CBS block, wood, fabric, or any other material which is affixed to the face of the Principal Building for the purpose of enclosing a Balcony or Porch.

(Ord. No. 169, § 6-9(o), 6-29-74)

Sec. 21-281. - Permitted uses.

No Building or land shall be used in the OF Ocean Front District and no Building shall be erected, constructed, reconstructed or structurally altered which is designed, arranged or intended to be used for any purpose, unless otherwise provided for in this chapter, except for one or more of the following uses:

- (1) Multiple-Family Dwellings or apartment buildings containing not less than 24 dwelling units.
- (2) Hotels containing not less than 100 Guest Rooms.

- (3) Public and private beach areas.
- (4) Public parks and playgrounds owned and operated by the Village.
- (5) Off-street parking and loading facilities.
- (6) Cabanas, as accessory structures, constructed concurrently with or subsequent to the construction of the main Building.
- (7) Medical and dental offices including services in such offices related to medical or dental care that are performed under the supervision of medical doctors or dentists. Such medical and dental offices shall be located in buildings as defined in subsections (1) and (2) and must meet the requirements of subsection (8) a through e of this section.
- (8) Convenience establishments in multiple-family developments containing at least 100 or more dwelling units, provided their operations in multiple-family developments are for the primary use of the residents of the Building and are used only as an ancillary and Accessory Use thereto for the day-to-day convenience of the residents. These convenience establishments in multiple-family developments are subject to the following restrictions:
 - a. Such convenience establishments shall be entered only from within the Principal Building.
 - b. Such convenience establishments shall have no outside entrance or storefront.
 - c. Such convenience establishments shall have no sign display, lighting or advertisement matter facing or visible from the western boundary of the district, or which may be facing or visible from a point on Lot 1 in the district west or south of such Hotel or multiple-family building.
 - d. The total amount of floor area devoted to convenience establishments shall not exceed ten percent of the aggregate floor area of the Principal Building in which it is located.
 - e. The sale, dispensing or storage of gasoline, oil, grease or automobile accessories is prohibited in this district.
 - f. The Village Council may grant an exemption to a restaurant from the requirement that convenience establishments in multifamily developments be primarily for the use of residents of the building as an ancillary and accessory use after a public hearing and upon finding that:
 - 1. Such an exemption will not adversely affect the residents of the building;
 - 2. Such an exemption will not adversely affect the character of the Village; and
 - 3. The nature of the restaurant for which an exemption is sought is compatible with other development in the Village.In granting such an exemption, the Council may impose such conditions as it deems appropriate.
- (9) Convenience establishments in Hotels containing 100 or more Guest Rooms.
- (10) Convenience establishments in multiple-family developments shall be defined as follows:
 - a. Barbershops.
 - b. Beauty salons.
 - c. Cleaners.
 - d. Mini-groceries.
 - e. Restaurants.
 - f. Health clubs.
 - g. Travel agencies.

- h. Florists.
- i. Other similar uses as may be permitted by the Village Council, after a public hearing, provided that such uses are compatible with and do not adversely affect the residential character of the multi-family development.

The definition of convenience establishments in Hotels shall not be restricted except as provided in this Code or under Florida law.

(11) Vacation Rentals in accordance with section 21-363

(Ord. No. 169, § 6-9(a), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88; Ord. No. 329, § 1, 3-21-89; Ord. No. 355, § 1, 10-3-90; Ord. No. 371, § 1, 4-21-92; Ord. No. 398, § 1, 7-18-95; Ord. No. 549, § 6, 5-31-2011)

Sec. 21-282. - Boundary designation.

The boundary of the OF Ocean Front District shall consist of the following lot and block numbers or tract numbers:

- (1) Tract "A" and Lots 1 to 16, inclusive, of the Ocean Front Section of Bay Harbor.
- (2) Tracts C, D and E of the Bal Harbour Ocean Front Addition.

(Ord. No. 169, § 6-9(b), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88; Ord. No. 437, § 4, 10-17-00)

Sec. 21-283. - Minimum Lot area.

Lot area in the OF Ocean Front District shall not be less than two and one-half acres.

(Ord. No. 169, § 6-9(c), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88)

Sec. 21-284. - Minimum street frontage.

Street frontage for Lots in the OF Ocean Front District shall not be less than 200 feet.

(Ord. No. 169, § 6-9(d), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88)

Sec. 21-285. - Maximum Density.

The maximum Density in the OF Ocean Front District shall not exceed the following:

- (1) Multiple Family Dwelling Units: 55 dwelling units per acre.
- (2) Hotels: 100 Guest Rooms, capable of separate occupancy, per acre.

(Ord. No. 169, § 6-9(e), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88; Ord. No. 473, § 2, 6-18-02)

Sec. 21-286. - Maximum Floor Area Ratio.

The Floor Area Ratio in the OF Ocean Front District shall not exceed 2.8 to one, exclusive of floor area within enclosed Parking Structures devoted entirely to off-street parking and those floor areas listed in section 21-1 that are excluded in the definition of Floor Area Ratio.

(Ord. No. 169, § 6-9(f), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88; Ord. No. 473, § 2, 6-18-02)

Sec. 21-287. - Maximum Lot coverage—Generally.

Principal Buildings and Structures in the OF Ocean Front District having 17 Stories or less shall not exceed 20 percent of the total Lot area. For each Story in excess of 17 Stories, the maximum percentage of Building coverage permitted for Principal Buildings and Structures shall decrease by one percent; i.e., 18 Stories, 19 percent Lot coverage; 19 Stories, 18 percent Lot coverage; etc.

(Ord. No. 169, § 6-9(g), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88; Ord. No. 335, § 1, 7-24-89)

Sec. 21-288. - Same—Exception for accessory Parking Structures.

In the OF Ocean Front District, 100 percent of the required off-street parking spaces shall be contained in fully enclosed Parking Structures which may utilize front, side and rear Setback areas subject to the following requirements:

- (1) The maximum Lot coverage of the Principal Building does not exceed 20 percent of the total Lot.
- (2) No parking is provided on the roof of the Parking Structure.
- (3) A minimum of 75 percent of the roof of the Parking Structure, excluding the Principal Structure, shall be utilized for open space, Landscaping, and recreation in accord with a plan approved by the Village.
- (4) The maximum Height of the accessory Parking Structure shall not exceed an elevation of 22.00 feet above the average Street Grade adjoining the Property, and shall conform to the regulations contained in section 21-291. For the purpose of this section, the determination of the average Street Grade for those Lots or portions of Lots in proximity to the Haulover Cut Bridge shall be measured as the combined average elevations of the adjoining frontage road and the road surface of the bridge adjoining the subject Property (westerly extension of the Property lines to the bridge). The determination of the average elevation shall be as follows:
 - a. Based upon the roadway frontage adjoining the subject Property, establish an imaginary extension of the Property line to the eastern edge of the frontage road right-of-way and the bridge Structure;
 - b. At the intersection of the extension of the Property line and the centerline of the frontage road and bridge roadway surface, determine the elevations of the road surfaces at the north and south Property line extensions and divide by four.
- (5) No portion of the Parking Structure shall encroach within the front Building Restriction Line area as shown on the recorded plats of the Ocean Front Section of Bay Harbor and the Bal Harbour Ocean Front Addition.
- (6) Accessory Parking Structures shall be designed in such a manner so that from the adjoining roadways, the Structure must be substantially screened from view by the use of earthen berms and Landscaping. Driveways should appear to rise to the entrance of the Principal Building. This shall not prohibit the Parking Structure driveway openings from being visible from an adjoining Street.

(Ord. No. 169, § 6-9(h), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88; Ord. No. 473, § 2, 6-18-02; Ord. No. 479, § 2, 9-17-02)

Sec. 21-289. - Minimum floor areas.

The following shall be considered minimum habitable floor areas in the OF Ocean Front District:

- (1) Efficiency dwelling units: 600 square feet.
- (2) One-bedroom dwelling units: 900 square feet.
- (3) Two-bedroom dwelling units: 1,150 square feet.
- (4) Three-bedroom dwelling units: 1,500 square feet.
- (5) For each additional bedroom over three, an additional 200 square feet of floor area shall be required.
- (6) Hotel Guest Rooms: 400 square feet.

Spaces which are convertible to additional bedrooms shall be considered as bedrooms for purposes of determining minimum habitable floor areas.

(Ord. No. 169, § 6-9(i), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88; Ord. No. 473, § 2, 6-18-02)

Sec. 21-290. - Open space.

- (a) Not less than 60 percent of the total Lot area of Lots in the OF Ocean Front District shall be maintained as open space. For purposes of this chapter, the roofs of off-street Parking Structures shall be considered open space.
- (b) Further, not less than 50 percent of the total required open space shall be exclusively maintained as usable recreation areas. This space shall be in such dimensions as to be usable for active and passive recreation.

(Ord. No. 169, § 6-9(j), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88)

Sec. 21-291. - Setbacks.

The following Setbacks apply in the OF Ocean Front District:

- (1) *Front.* All Buildings and Structures, except for fully enclosed Parking Structures as allowed in section 21-288 of this article, of 17 Stories or less shall be set back a minimum of 150 feet from the right-of-way of Collins Avenue. Each Story above the 17th Story shall be set back an additional 25 feet from the Story below; i.e., 18 Stories, 175-foot Setback; 19 Stories, 200-foot Setback; etc. This would allow a "stepped" effect for those portions of a Building over 17 Stories. This provision shall not be interpreted to require a "stepped" Building above the 17th Story; rather, if the entire Building is set back to include the base Setback and supplemental Setback for each additional Story over 17, the Building shall be deemed in compliance with this paragraph.
- (2) *Rear.* No Building or Structure of any kind, except Cabanas not greater in Height than ten feet above the finished Grade, shall be erected or maintained on any Lot beyond the east Setback line as shown on the recorded plats of the Ocean Front Section of Bay Harbor and the Bal Harbour Ocean Front Addition.
- (3) *Bulkhead.* No Building or Structure of any kind, except those necessary for the control of beach erosion, shall be built east of the existing Bulkhead.
- (4) *Erosion Control Line.* No Building or Structure of any kind shall be erected or constructed within 55 feet west of the Erosion Control Line.
- (5) *Side.*
 - a. All Principal Buildings and Structures shall maintain a minimum side Setback from each side Lot Line equal to 25 percent of the Street frontage of the Lot.

- b. The maximum width of any Principal Building shall be 50 percent of the width of the Lot.
 - c. Where two or more Principal Buildings are erected on the same or multiple Lots, their combined width shall not exceed 50 percent of the width of the Lot.
 - d. Side Setbacks shall be equal, except that Lots over 250 feet in width may have unequal side Setbacks, provided, however, that not less than a 50 foot side Setback shall be provided for Lots equal to or more than 250 feet in width.
 - e. Notwithstanding subsection (5)d. above, for any parcel of land more than 250 feet in width, if any combination of access easements and beach access improvements are provided on said parcel for the public, all as may be approved by the Village Council, the width of a side Setback shall be measured from the exterior Lot Line, as opposed to any public access easement or land parcel. The purpose of this section is to not penalize a Property Owner for providing public beach access by deducting the width of the public access land from the overall Lot Width. A side Setback for a Principal Building shall not be less than 50 feet in width.
- (6) *Cabanas, Parking Structures and Porte-Cocheres.* Only Cabanas and enclosed Parking Structures shall be permitted in the Setback areas, subject to the following:
- a. Cabanas and Parking Structures shall either abut the side Lot Lines or maintain a minimum twenty-five (25) foot side Setback from each side Lot Line.
 - b. No Parking Structure shall exceed an elevation of 22.00 feet above the average Street Grade adjoining the Property, where such Structure abuts a side Lot Line.
 - c. No Parking Structure shall exceed an elevation of 22.00 feet above the average Street Grade adjoining the Property, within the rear Setback as shown on the recorded plats of the Ocean Front Section of Bay Harbor and the Bal Harbour Ocean Front Addition, as of May 1, 2002.
 - d. Cabanas may be erected in the rear Setback area provided they do not exceed an elevation of 31.00 feet above the average Street Grade adjoining the Property.
 - e. Cabanas erected in the side Setback portions of the rear Setback areas shall not exceed an elevation of 22.00 feet above the average Street Grade adjoining the Property.
 - f. No Buildings or Structures of any kind shall be erected or constructed within the front Setback area, except as follows:
 - (i) A Porte-Cochere may be constructed in the front Setback area so long as it is cantilevered, and does not exceed a length along the front entrance in reasonable proportion to the entrance, and projects no more than 20 feet into the front Setback area. Notwithstanding the above, for Buildings that are located as of May 1, 2002 in the front Setback area, the Porte-Cochere may project no more than 20 feet from the face of the existing tower Structure area. Such Porte-Cochere must be reviewed by the Architectural Review Board.
 - (ii) A fully enclosed Parking Structure may be erected within the front Setback area but shall not encroach within the Building Restriction Line areas adjacent to Collins Avenue as shown on the recorded plats of the Ocean Front Section of Bay Harbor and the Bal Harbour Ocean Front Addition.
- (7) *Coastal Construction Control Line.* Notwithstanding anything to the contrary in the Code, Building construction seaward of the coastal construction control line may be permitted provided that all State and local permits required for such Building construction are obtained by the applicant.

(Ord. No. 169, § 6-9(k), 6-29-89; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88; Ord. No. 335, § 2, 7-24-89; Ord. No. 469, § 1, 11-20-01; Ord. No. 473, § 2, 6-18-02)

Sec. 21-292. - Landscaping.

The following Landscaping provisions shall apply in the OF Ocean Front District.

- (1) *Minimum Landscaping required.* A minimum of 25 percent of the total Lot area shall be maintained as landscaped areas.
- (2) *Area to be landscaped.* All Lot areas not occupied by a principal and accessory Structures, required off-street parking and loading, access and circulation facilities or other required areas, including roof surface of enclosed Parking Structures, shall be landscaped by lawns, trees, shrubs, ground cover and other appropriate materials.
- (3) *Buffer zones.*
 - a. Within the front Setback areas, there shall be a fully landscaped buffer zone along the front Lot Line for a depth of at least 40 feet as measured from the Street right-of-way line, and a fully landscaped buffer zone along the north and south side Lot Lines for a depth of ten feet, as measured from the side Lot Line.
 - b. Landscaping within these buffer zones shall be designed and planned to protect the view of adjoining Properties and screen surface parking facilities from the adjacent Streets and Properties.
- (4) *Front Setback area.* A minimum of 50 percent of the required front Setback area shall be fully landscaped.
- (5) *Beach Landscaping.* The beach area between the existing Bulkheads and the Erosion Control Line shall be landscaped with plant materials intended to beautify the area and to aid in the control of beach erosion.
- (6) *Landscape plan required.* A landscape plan, indicating size, type, and location of all plant and other materials, shall be submitted for review and approval to the Village.

(Ord. No. 169, § 6-9(I), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88; Ord. No. 473, § 2, 6-18-02)

Sec. 21-293. - Building Height.

- (a) The maximum Height of a flat roof deck or the midpoint of a sloped roof of any Principal Building or Structure, other than decorative architectural roof features, Mechanical Equipment or Rooms, elevator equipment Rooms, water storage facilities, air conditioning equipment, accessory recreational facilities, fences, wall and similar facilities (non-habitable roof features) shall be 275 feet above the average Street Grade adjoining the Property. Non-habitable roof features may extend above the height of the Building by no more than 25 feet.
- (b) In the OF Ocean Front District, for the purposes of calculating maximum Building coverage pursuant to section 21-287, and Setbacks pursuant to section 21-291, a Story shall not exceed 11 feet. The 11-foot Story Height referenced herein shall not be interpreted to restrict the Height of an individual Story to 11 feet or any other dimension, but shall only serve as a means to measure and restrict Building coverage and Setbacks.
- (c) Roof Structures designed and utilized for the housing of Mechanical Equipment such as elevators, water storage, air conditioning and similar facilities shall not be considered in calculating the number of Stories, provided:
 - (1) The Structure is fully enclosed or screened and does not exceed 25 feet in Height.
 - (2) The outside walls of the roof Structure are set back a minimum of 20 feet from the exterior walls of the principal Structure.
 - (3) No Guest Rooms, dwelling units, business establishments or other accommodations or public spaces, are contained within this Structure.

- (d) Rooftop accessory recreational facilities shall be visually screened from neighboring oceanfront Lots by fences, walls or other screening materials or features that are no shorter in height than the object to be screened, all as approved by the Architectural Review Board.
- (e) For the purpose of this section, the determination of the average Street Grade for those Lots or portions of Lots in proximity to the Haulover Cut Bridge shall be measured as the combined average elevations of the adjoining frontage road and the road surface of the bridge adjoining the subject Property (westerly extension of the Property lines to the bridge). The determination of the average elevation shall be as follows:
 - (1) Based upon the roadway frontage adjoining the subject Property, establish an imaginary extension of the Property line to the eastern edge of the frontage road right-of-way and the bridge Structure;
 - (2) At the intersection of the extension of the Property line and the centerline of the frontage road and bridge roadway surface, determine the elevations of the road surfaces at the north and south Property line extensions and divide by four.

(Ord. No. 169, § 6-9(m), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88; Ord. No. 335, § 3, 7-24-89; Ord. No. 473, § 2, 6-18-02; Ord. No. 512, § 2, 10-17-06)

Sec. 21-294. - Model Buildings.

Model Buildings designed and utilized for advertising, promotional or display purposes may be constructed in the OF Ocean Front District subject to the following requirements:

- (1) Model Buildings shall not exceed a height of 12 feet above finished Grade, shall be set back a minimum of 50 feet from the front Property line, and shall be set back a minimum of 20 feet from side Lot Lines.
- (2) Model Buildings shall not be erected prior to the issuance of all required building permits for the principal structure.
- (3) Model Buildings shall be removed prior to the issuance of certificates of occupancy for the Principal Building.

(Ord. No. 169, § 6-9(n), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88)

Sec. 21-295. - Balcony or Porch Enclosures.

- (a) Balcony or Porch Enclosures shall be permitted in any Principal Building in the OF Ocean front District constructed after the effective date of this section, provided:
 - (1) Such enclosures are uniform in color, material, design, configuration and type.
 - (2) Such enclosures are installed and constructed contemporaneously with the construction of the Principal Building.
 - (3) Individual enclosed Balconies or Porches may not be utilized as a bedroom.
 - (4) Applications for Building permits for all Balcony or Porch Enclosures shall be accompanied by a statement from a professional engineer or architect in active structural practice, registered in the State of Florida, certifying the capability of the Principal Building to support the proposed enclosure.
- (b) Except as otherwise provided in this section, Ordinance No. 228 shall apply to Principal Buildings constructed after the effective date of Ordinance No. 228, May 26, 1981. Balcony or Porch Enclosures to be constructed in any existing Building shall be governed by regulations in effect prior to the adoption of Ordinance No. 228; provided, however, that Ordinance No. 228 shall also apply to Principal Buildings constructed prior to the adoption of that ordinance where no Balcony or Porch Enclosures

have been installed or constructed on such Principal Buildings as of the effective date of Ordinance No. 239.

(Ord. No. 169, § 6-9(o), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88; Ord. No. 473, § 2, 6-18-02)

Sec. 21-296. - Storm and hurricane shutters.

- (a) Storm or hurricane shutters or protective devices shall be permitted in any Principal Building in the OF Ocean Front District constructed after the effect of this section, provided:
 - (1) Such storm or hurricane shutters are uniform in color, material, design, configuration and type for each Principal Building.
 - (2) Storm or hurricane shutters of whatever type, when installed, shall be installed immediately facing the structural wall plane of the Principal Building, as close as practical to sliding glass doors, doors, windows or other wall openings.
 - (3) Storm or hurricane shutters of whatever type shall not be installed on the exterior face or railings of Balconies or Porches where such Balconies or Porches are located above the first floor level.
- (b) Except as otherwise provided in this section, Ordinance No. 239 shall apply to storm or hurricane shutters installed on Principal Buildings constructed after the effective date of Ordinance No. 239. Storm or hurricane shutters already installed, or to be installed, on Principal Buildings in existence as of the effective date of Ordinance No. 239 shall be governed by regulations in effect prior to the adoption of Ordinance No. 228 on May 26, 1981; provided, however, that Ordinance No. 228 shall apply to storm or hurricane shutters installed on Principal Buildings constructed prior to the effective date of Ordinance No. 228 on May 26, 1981 where no such storm or hurricane shutters have been installed or constructed on such Principal Buildings as of the effective date of Ordinance No. 239.

(Ord. No. 169, § 6-9(p), 6-29-74; Ord. No. 193, §§ 1—4, 7-26-77; Ord. No. 228, §§ 1, 2, 5-26-81; Ord. No. 239, §§ 1, 2, 6-29-82; Ord. No. 280, § 1, 7-29-86; Ord. No. 317, § 1, 7-19-88)

Sec. 21-297. - Protection of sea turtles during nesting season.

The disturbance of sea turtles nests is prohibited, unless conducted by authorized persons in the duty of sea turtle protection. During nesting seasons, beach cleaning activities are not to come within a distance which will disturb the function of the nests. Where feasible, the source of emission of outside light from structures will not be directly visible from turtle nesting areas.

(Ord. No. 356, § 5(6-9(q)), 11-13-90)

Sec. 21-298. - Protection of sea turtles during beach renourishment.

Beach renourishment projects shall protect sea turtle nesting areas by limiting construction in such areas to fall, winter and spring months, or by permitting the collection of eggs from identified nests by authorized personnel for incubation, hatching and subsequent release of hatchlings.

(Ord. No. 356, § 5(6-9(r)), 11-13-90)

Sec. 21-299. - PD Planned Development District.

- (a) *Applicability.* Owners of properties located within the OF Ocean Front District which contain five or more contiguous acres may apply to the Village Council to approve a rezoning to a PD Planned Development district applicable to their properties, in accordance with the following provisions and in the discretion of the Village Council.
- (b) *Procedure for creation of PD District.*

- (1) *Purpose of PD District.* The purpose of this section is to promote the public health, safety, comfort, order, appearance, convenience and general welfare of the Village; to answer the demand for housing of all types and designs; to provide suitable sites for the development of Structures combining residential and suitable commercial uses in a well-planned and compatible manner; to encourage innovations in residential and mixed use development, with greater variety in type, design and layout of Buildings than is generally possible under conventional zoning regulations; to conserve and efficiently use open space; to provide greater opportunities for housing, shopping, employment and recreation; to encourage more efficient use of land and public services; and to conserve land values. It is further the intent of this section to secure:
 - (i) The establishment of standards of PD design which will encourage the development of attractive, interesting, high quality mixed use Structures;
 - (ii) The provisions of safe and convenient vehicular and pedestrian traffic circulation in land developments;
 - (iii) The availability of open spaces in land developments for recreational beach access;
 - (iv) The coordination of land development in the Village in accordance with orderly physical growth patterns;
 - (v) Implementation of the comprehensive plan; and
 - (vi) The discretion of the Village Council to approve, approve with conditions, or deny a PD application based upon its determination that the application, as proposed or modified, serves and protects the health, safety and welfare to at least an equivalent degree as the underlying zoning.
- (2) *Ownership and applicant qualifications.* A PD application may be filed in the names of the Owners of record of the Property included within the PD. However, the application may be filed by an applicant with an equitable interest in the Property, or by an attorney or agent for the Owners, provided the Owners of record join in and execute the application.
- (3) *Application.* A PD application shall be in form prescribed by the Building Official, and shall be accompanied by a current survey, detailed site plan, a conceptual Building plan and elevations, preliminary engineering plans, proposed preliminary design guidelines and a Landscaping plan. Each application shall be accompanied by a nonrefundable application fee of \$12,500.00. The Village shall account for all costs of review, including but not limited to fees of Village staff and consultants and out of pocket costs. The applicant additionally shall pay for all actual costs to the Village over \$12,500.00. After the Village has incurred over \$10,000.00 in costs, the applicant shall make a further deposit toward the actual costs in an amount and time at the discretion of the Village Manager.
- (4) *Architectural Review Board.* The Building Official shall review the application when complete and shall submit a report to the Architectural Review Board, which shall review the application and the Building Official report, and provide comments to the Building Official. The Building Official shall then recommend to the Village Council whether to approve, approve with conditions, or deny the PD.
- (5) *Village Council determination.* The development of any new PD, or the major alteration, addition or modification to an existing PD, may only be permitted in accordance with a development plan approved by the Village Council after a public hearing, after recommendations from the Building Official and the Architectural Review Board and upon a showing by the applicant that the proposed PD:
 - (i) Complies with each of the requirements of this section 21-299
 - (ii) Is designed and scaled to be compatible with adjacent development(s) and the surrounding neighborhood to a degree that will avoid substantial depreciation of the value of, or adverse impacts to, the adjacent properties by virtue of its nature, location, design, Building mass or intensity of use;

- (iii) Will not create excessive noise, traffic, illumination or other noxious impacts; and
- (iv) Provides for safe, efficient, convenient and harmonious groupings of Structures, uses and facilities and for appropriate relationship of space inside and outside of Buildings to intended uses and to structural and architectural features within the site.

In connection with the approval of the site plan and the creation of the PD District, the Village Council may impose reasonable limitations on the uses within the PD (including but not limited to hours of operation) and conditions for approval to ensure the compatibility of the uses with adjacent development(s) and the surrounding neighborhood and the mitigation of any adverse impacts from the proposed development. Such mitigation may include, but not be limited to screening or buffering, Landscaping, control or manner of operation, changes in proposed construction, location or design of Buildings, relocation of proposed open space or alteration of use of such space, and changes in traffic patterns.

- (6) *Development agreement.* No development shall take place within a PD Planned Development District except in conformance with a Written development agreement approved by the Village Council. The agreement shall address the applicant's dedication of land or facilities to mitigate its impacts upon the Village, as may be negotiated by the Village and the applicant. The agreement shall also provide for deed restrictions, covenants, and sureties as necessary, acceptable to the Village, for the completion of the development according to the plans approved at the time of rezoning to PD Planned Development, and for continuing operation and maintenance of such areas, functions and facilities which are not proposed to be provided, operated or maintained at public expense. Unless otherwise specifically agreed to in the development agreement, development plans and permits for uses or Structures within a PD shall comply with all Village regulations, ordinances, and resolutions in effect at the time of plan approval or permit application. The second reading of the ordinance rezoning land to a PD Planned Development District shall not take place until the applicant has provided a final copy of the development agreement to the Village Clerk. In order to be considered final, the agreement shall be fully corrected to address all outstanding issues raised by the time of first reading, shall be fully executed by the applicant and all other necessary parties other than the Village, and shall include or incorporate by reference copies of all referenced exhibits. If approved, the agreement shall be recorded by the applicant with the County Clerk, at the applicant's expense.
 - (7) *Unified control.* All land included for the purpose of development within a PD Planned Development District shall be under the control of the applicant. The applicant shall present satisfactory legal documents to constitute evidence of the unified control of the entire area within the proposed PD. All agreements and evidence of unified control shall be certified by the Building Official and the Village Attorney that such agreements and evidence of unified control meet the requirements of these regulations. Nothing in this subsection shall prohibit the subsequent conveyance of any portion of the Property located within a PD Planned Development District, as long as unified control remains over all parcels in the District.
 - (8) *Mapping of PD District.* Upon approval of a PD by the Village Council, the official zoning map of the Village shall be amended to show the PD and the portions of it designated for particular uses, if any.
- (c) *Permitted uses.*
- (1) *Mixed uses.* All of the uses permitted in the OF Ocean Front District, at section 21-281, are permitted in a PD Planned Development District. At least two of the listed uses shall be included in the PD District. Any use not specifically permitted in the OF Ocean Front District shall be prohibited in a PD Planned Development District.
 - (2) *Accessory uses.* An accessory use permitted in the OF Ocean Front District shall also be permitted in a PD Planned Development District.
 - (3) *Utilities.* Facilities for utilities including, but not limited to, power and light, cable television, telephone, water, sewer and gas utilities, shall be constructed and installed underground. This

subsection shall not prohibit the erection on the ground or flush with the ground of transformers, or other similar on-the-ground facilities normally used with and as a part of an underground distribution system. The applicant shall make the necessary cost and other arrangements for such underground installation with the appropriate utility provider. Facilities for utilities shall be constructed in appropriate easements except for water and sewer utilities, which shall be constructed in the right-of-way, whenever possible.

- (4) *Storage uses to be enclosed.* All storage uses shall be conducted within a completely enclosed Building.
- (d) *Minimum Lot area.* The minimum Lot area applicable within a PD Planned Development District shall be five acres.
- (e) *Minimum Street frontage.* Street frontage for Lots in the PD Planned Development District shall not be less than 350 feet.
- (f) *Maximum Density.* The maximum densities applicable to the OF Ocean Front District, at section 21-285, are also applicable to a PD Planned Development District. Where an application for site plan in a PD Planned Development District includes multiple Lots or phases, and any one or more of those Lots or phases contains legal non-conforming use as to Density, the existence of such legal non-conforming use shall not reduce the number of units per acre permitted in this section for any other Lot or phase. However, Density may be transferred within PD phases, provided that a final PD site plan for a particular phase shall not be approved unless:
 - (1) The cumulative Density of the final PD phase site plan to be approved and all prior approved final PD phase site plans does not exceed the Density of the OF Ocean Front District; or
 - (2) The Density of future phase site plans is restricted such that the total Density of the final PD site plan to be approved, all prior approved PD phase site plans, and all future PD phase site plans do not exceed the Density requirements of the OF Ocean Front District.
- (g) *Setbacks.*
 - (1) *Modified Building Setbacks.* Subject to final PD site plan approval, Building Setbacks may be modified from the provisions of the underlying OF Ocean Front District. Modified Building Setbacks shall be set forth on the final PD site plan or an accompanying recorded document and shall be enforced by the Village as if the Setbacks were provisions of the underlying zoning district. Building Setbacks may be modified only in accordance with the following criteria:
 - (i) If the PD contains residential uses, the modified Building Setback shall provide privacy within dwellings.
 - (ii) The modified Building Setback shall provide adequate light and air.
 - (iii) The location of a modified Setback and the compatibility of adjacent uses shall be a factor in granting approval of Setback modifications.
 - (iv) Building configuration and the relationship between Building configuration and privacy, light, air and the compatibility of modified Building Setback uses shall be factors in granting approval of Setback modifications.
 - (v) Fire exposure of proposed PD Buildings, ground floor area of Buildings, height of Buildings, occupancy usage, type of construction, availability of water for fire flow, and spacing of fire hydrants shall be factors in granting approval of Setback modifications.
 - (2) *Required perimeter Building Setback.* No Building shall be located closer than 100 feet to Collins Avenue, or closer than 25 feet to any other perimeter Property line of a PD. The perimeter Building Setback shall be landscaped to the standards of, and maintained as required by, subsection 21-292. In determining the specific perimeter Setback requirement for each PD, the compatibility of adjacent land uses, Building heights and any Parking Structures shall be considered and the required perimeter Building Setback may be adjusted accordingly.

- (3) *Coastal construction control line.* Notwithstanding anything to the contrary in the Code, Building construction seaward of the coastal construction control line may be permitted provided the Building construction is consistent with the approved PD site plan and development agreement and provided that all State and local permits required for such Building construction are obtained by the applicant.
- (h) *Building height.* Building height shall not exceed 297 feet above the average Street Grade adjoining the Property, as determined under section 21-288(4) of this Code. Rooftop Structures shall be permitted pursuant to section 21-293 of this Code.
- (i) *Model Buildings.* The model Building provisions applicable to the OF Ocean Front District, at section 21-294, is also applicable to a PD Planned Development District.
- (j) *Storm and hurricane shutters.* The storm and hurricane shutters applicable to the OF Ocean Front District, at section 21-296, are also applicable to a PD Planned Development District.
- (k) *Sea turtle protection.* The sea turtle protection provisions applicable to the OF Ocean Front District, at sections 21-297 and 21-298, are also applicable to a PD Planned Development District.
- (l) *Compliance.* No PD shall be approved unless the conditions of this section are satisfied. The requirements of this section are continuing and enforceable against any PD approved hereunder.
- (m) *Modification of development parameters.* A development agreement and PD approval granted under this section may be reasonably modified where the conditions and designs are such that modification is necessary in the determination of the Village Council. Any modification shall require evidence of the necessity for the modification and the resulting impact of the modification, and shall conform to the development parameters of this section. Approved modifications shall be incorporated into the development agreement, and shall be accompanied by the submission of as-built plans for the entire PD development with all existing easements and underground utility systems shown thereon, including Landscaping plans. Applications for modifications must be authorized by all of the Persons that originally signed the development agreement on behalf of the applicant.
- (n) *Effect of PD Planned Development rezoning.* Upon the rezoning of the Property to PD Planned Development District, the approved PD site plan and development agreement, along with such requirements, safeguards, or modifications as may have been included by the Village Council in its rezoning action, shall be substantially complied with relative to the issuance of Building permits and certificates of occupancy for all Buildings and improvements constructed within the PD Planned Development District. The approved PD site plan and development agreement shall constitute the approved development and the development regulations applicable to Property within the PD Planned Development District. In the event of any conflict with any other provisions of the Code, the PD site plan and development agreement shall control the development of the Property within the PD Planned Development District.

(Ord. No. 473, § 4, 6-18-02)

Secs. 21-300—21-315. - Reserved.

FOOTNOTE(S):

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Cross reference— Licenses, permits and business regulations, ch. 9; sign regulations in the Business Districts, § 15-37. [\(Back\)](#)

DIVISION 11. - B BUSINESS DISTRICT

Sec. 21-316. - Permitted uses.

No Building or land shall be used in the B Business District and no Building shall be erected, constructed, reconstructed or structurally altered which is designed, arranged, or intended to be used for any purpose, unless otherwise provided for in this chapter, except for one or more of the following permitted or conditional uses:

(a) *Permitted Uses:*

- (1) An Accessory or subordinate Building, attached or detached from the main Building, in which there shall be no business or commercial activities conducted, shall be permitted for uses which are incidental and necessary to the main business.
- (2) Countertop appliance, electronic, music, radio, computer and communication hardware and software and/or telephone and television stores, up to a gross area of 10,000 square feet, provided the place of business intended for such use is located 1,000 lineal feet or more from a place of business within the Village having an existing, legally established certificate of use primarily for the sale of any merchandise described in this use category. The 1,000-foot distance requirement shall be measured by following a straight line between the nearest two points of the areas used as the place of business. Such use shall be prohibited from offering parking at any different rate than is applied to invitees of other businesses on the property.
- (3) Art galleries.
- (4) Auction houses.
- (5) Banks and other financial institutions.
- (6) Barbershops.
- (7) Beauty salons.
- (8) [Reserved.]
- (9) [Reserved.]
- (10) [Reserved.]
- (11) Confectionery, bakeries and ice cream stores.
- (12) Dry cleaning and pressing agency (no laundry or dry cleaning permitted on the premises).
- (13) [Reserved.]
- (14) [Reserved.]
- (15) [Reserved.]
- (16) [Reserved.]
- (17) [Reserved.]
- (18) Interior decorating, costuming, draperies.
- (19) [Reserved.]
- (20) Merchants, including dry goods, department and variety stores, wearing apparel, furriers, furniture and home furnishings, hardware, stationery items, sporting goods, luggage, antiques, china, jewelry, books, toys, videos, soaps, perfumes, leather goods and gifts.
- (21) Municipal Buildings.
- (22) Offices, including brokerage houses.

- (23) Optical businesses.
 - (24) [Reserved.]
 - (25) Parking/storage of motor cars.
 - (26) Photograph studios.
 - (27) Post offices.
 - (28) [Reserved.]
 - (29) Professional offices.
 - (30) Restaurants, limited to establishments where food is prepared to order, under the supervision of a qualified chef, without the use of previously mass assembled food components, and primarily for consumption on the premises, not including establishments where food is prepared using previously mass assembled food components and served in disposable packaging for consumption on or off the premises.
 - (31) Sales and show rooms.
 - (32) Skin salons and spas, not including stand-alone tattoo parlors.
 - (33) Tailor and alteration shops (dry cleaning agency only, pressing but no cleaning).
 - (34) [Reserved.]
 - (35) Travel agencies.
 - (36) Watch sale and repair shops.
 - (37) [Reserved.]
 - (38) Snack Shop or Sundry Shop, limited to eating establishments serving beverages and prepackaged snacks and light fare, such as sandwiches, for consumption on or off the premises, not including establishments where food is prepared using previously mass assembled food components and served in disposable packaging for consumption on or off the premises.
- (b) *Conditional Uses*—Permitted after site plan review pursuant to Section 21-322
- (1) Appliance, electronic, music, radio, computer and communication hardware and software and/or telephone and television stores where the place of business intended for such use is located less than 1,000 lineal feet from a place of business within the Village having an existing, legally established certificate of use primarily for the sale of any merchandise described in this use category. The 1,000-foot distance requirement shall be measured by following a straight line between the nearest two points of the areas used as the place of business.
 - (2) Banquet hall with or without on-site catering.
 - (3) Child care or juvenile entertainment facilities (but not video arcades).
 - (4) Places of Worship.
 - (5) Cocktail lounges.
 - (6) Drugstores.
 - (7) Florists.
 - (8) Grocery stores.
 - (9) Health clubs.
 - (10) Liquor package stores.

- (11) Private clubs.
- (12) Theaters and motion picture houses.
- (13) Other uses with similar impacts as may be permitted by the Village Council, after a public hearing, provided that such uses are compatible with and do not adversely affect the character of the "B" Business District.

At least 15 days before any major event that is expected to attract in excess of 500 people at any one time or will involve live music or use of a public address system, such as grand openings, product roll-outs, etc., the owner of any property in the B Business District shall seek the approval of the Village Manager, which shall review and authorize such event subject to a satisfactory security and traffic plan. In authorizing such an event, the Village Manager may attach reasonable conditions to ensure the safety of the public inside and outside the property, provide for adequate traffic circulation, and address any other potential impacts of the major event. Costs of providing Village personnel, including but not limited to Police or Fire/Emergency response staff, required by the approved security and traffic plan shall be borne by the property owner and shall be paid in advance of the major event.

(Ord. No. 169, § 6-10(a), 6-29-74; Ord. No. 205, § 2(D)—(G), 11-14-78; Ord. No. 298, § 3, 11-25-86; Ord. No. 377, § 1, 9-30-92; Ord. No. 2012-565, § 2, 11-20-2012)

Sec. 21-317. - Boundary designation.

The boundary of the B Business District shall consist of the following lot and block or tract numbers:

- (1) Business Section of Bal Harbour, Areas 1, 2, 2A, 3, 4, and 5.
- (2) Ocean Front Section of Bay Harbor, Tract B.
- (3) Residential Section of Bal Harbour, a portion of Tract D, described in DB 2886, page 198, and DB 3505, page 170.

(Ord. No. 169, § 6-10(b), 6-29-74; Ord. No. 205, § 2(D)—(G), 11-14-78; Ord. No. 298, § 3, 11-25-86)

Sec. 21-318. - Maximum Building Height.

Except as set forth herein, no Building or Structure in the B Business District shall exceed 56 feet or three Stories in Height, whichever is less. No Parking Structure shall exceed 56 feet or five Stories above the surface parking level in Height, whichever is less. Any Parking Structure which exceeds 36 feet or three Stories shall require a public hearing in accordance with the procedures set forth in Sections 21-51 and 21-52 and the standards set forth in Section 21-53(a). Notwithstanding any other limitation herein, for any assemblage of contiguous Lots now or hereafter owned by the same owner in the Business District which contains five or more contiguous acres, an area not to exceed 42,600 square feet thereof may, after a public hearing in accordance with the procedures set forth in Sections 21-51 and 21-52 and the standards set forth in Section 21-53(a), contain Structures not to exceed 69 feet in Height. Except as provided below, when a parapet wall is provided, the vertical distance shall be measured from the highest point of any street bounding the property to the highest point of the parapet wall. Parapet walls shall not exceed four feet in Height as measured from the highest point of the roof to the highest point of the parapet wall. Except as otherwise provided herein, a "Story" of a Structure shall be considered to be no greater than 19 feet in Height and a "Story" of a Parking Structure shall be considered to be no greater than 11 feet six inches in Height.

(Ord. No. 169, § 6-10(c), 6-29-74; Ord. No. 205, § 2(D)—(G), 11-14-78; Ord. No. 298, § 3, 11-25-86; Ord. No. 512, § 2, 10-17-06)

Sec. 21-319. - Yards; Setbacks.

(a) The following Yard and Setback requirements shall apply in the B Business District:

- (1) *Front Yard Setback.* The following front Yard Setbacks shall be maintained:
 - a. From Collins and Harding Avenues:
 1. 50 feet for Buildings occupied and used for the sale of merchandise or services at retail.
 2. 100 feet for Parking Structures and all other Structures.
 - b. From 96th Street: 7.5 feet for all Buildings, Parking Structures and all other Structures.
 - c. From Bal Bay Drive: 20 feet for all Buildings, Parking Structures and all other Structures.
 - d. From Park Drive: 100 feet for all Buildings, Parking Structures and all other Structures.
 - e. From Bal Cross Drive: 50 feet for all Buildings, Parking Structures and all other Structures.
- (2) *Interior, side and rear Yards.* There shall be interior, side and rear Yards having a width of not less than seven feet six inches on each side of a Building or Structure, including Parking Structures.
- (3) *Waterfront Setback.* There shall be a waterfront Setback of 40 feet, as measured from the outside face of the Seawall.

(b) The following Yard and Setback requirements shall apply in the Special Business Improvement Area:

- (1) *Front Yard Setback.* The following front Yard Setbacks shall be maintained:
 - a. From Collins and Harding Avenues: 20 feet for all Buildings, Parking Structures and all other Structures.
 - b. From 96th Street: 0 feet for all Buildings, Parking Structures and all other Structures.
 - c. From Bal Bay Drive: 20 feet for all Buildings, Parking Structures and all other Structures.
 - d. From Park Drive: 50 feet for all Buildings, Parking Structures and all other Structures.
 - e. From Bal Cross Drive: 50 feet for all Buildings, Parking Structures and all other Structures.
- (2) *Interior, side and rear Yards.* There shall be interior, side and rear Yards having a width of not less than 7.5 feet on each side of a Building or Structure, including Parking Structures.

(Ord. No. 169, § 6-10(d), 6-29-74; Ord. No. 205, § 2(D)—(G); Ord. No. 298, § 3, 11-25-86)

Sec. 21-320. - Traffic level; approval of traffic analysis.

- (a) All applications for review of a major site plan in the B Business District shall be accompanied by a traffic survey and analysis prepared by a qualified traffic engineer showing that any additional vehicular movements generated by reason of the construction, expansion or alteration can be accommodated by the adjacent Streets at the peak traffic hour on the Streets without causing the Level of Service on the Streets to deteriorate to a Level of Service E D or worse. Vehicular access to and from the Business District shall be limited to Collins Avenue and to 96th Street.
- (b) No major site plan approval shall be issued unless or until a traffic survey and analysis meeting the requirements of subsection (a) of this section has been filed with the Building Official and considered by the Village Council as part of the public hearing.
- (c) For purposes of this section, the term "Level of Service" (abbreviated as "LOS") refers to the overall quality of flow at an intersection. To quantify the various Levels of Service which can be experienced, the following criteria shall apply:
 - (1) *LOS A.* LOS A is the highest Level of Service which can be achieved. Under this condition, the green time available for any particular movement is never fully utilized, and no vehicle waits longer than one red indication. Typically, the approach appears quite open, turning movements are easily made, and nearly all drivers find freedom of operation, their only concern being the change

that the signal will be red or turn red when they approach. Volumes are generally less than 60 percent of capacity.

- (2) *LOS B.* LOS B is representative of stable operation. An occasional vehicle will be forced to wait through more than one red indication, and many drivers will begin to feel somewhat restricted within groups of vehicles. Volumes are usually between 60 percent and 70 percent of capacity.
- (3) *LOS C.* At LOS C, although still representative of stable operation, more drivers are forced to wait through more than one red indication, and backups may develop behind turning vehicles. Most drivers are beginning to feel restricted, but not objectionably so. This is the level typically associated with urban design practice. Traffic volumes under this Level of Service are generally between 70 and 80 percent of capacity.
- (4) *LOS D.* LOS D encompasses a zone of increasing restriction approaching instability. Delays to approaching vehicles may be substantial during short peaks within the peak period, but enough slack occurs to permit periodic clearance of long lines, thus preventing excessive backups. Traffic volumes at LOS D are between 80 and 90 percent of capacity.
- (5) *LOS E.* LOS E represents the capacity of the intersection where there are likely to be long lines of vehicles waiting upstream of the intersection and delays may be great (drivers may have to wait through several red indications). Traffic volumes in excess of 90 percent of capacity are indicative of LOS E.
- (6) *LOS F.* LOS F represents jammed conditions. Backups from locations downstream or on the cross street may restrict or prevent movement of vehicles out of the approach under consideration; hence, volumes carried are not predictable.

(Ord. No. 169, § 6-10(e), 6-29-74; Ord. No. 205, § 2(D)—(G), 11-14-78; Ord. No. 298, § 3, 11-25-86; Ord. No. 2012-566, § 3, 11-20-2012)

Sec. 21-321. - Floor Area Ratio.

(a) The maximum allowable Floor Area Ratio for the B Business District shall be FAR 0.70.

(b) The maximum allowable Floor Area Ratio for the Special Business Improvement Area shall be FAR 1.22.

(Ord. No. 169, § 6-10(f), 6-29-74; Ord. No. 205, § 2(D)—(G), 11-14-78; Ord. No. 298, § 3, 11-25-86)

Sec. 21-322. - Site plan review.

(a) *Definitions and Applicability.*

(1) For purposes of this section and Section 21-323, the following terms are defined:

- a. *Adjacent* shall mean contiguous with, or located immediately across any roadway, right-of-way or easement from, a development site that is subject to this section.
- b. *Development* shall mean (1) construction, reconstruction, conversion, structural alteration, relocation, enlargement, or demolition of a building or structure; or (2) any change in the use or intensity of use of any building, structure or use of land. When appropriate to the context, development refers to the act of development or to the result of development.
- c. *Development Site* shall mean a lot, tract or parcel of land, or combination of lots, tracts or parcels of land, which has been developed or is proposed to be developed as a unified project.
- d. *Municipal Building* shall mean a Building, Structure or other improvement owned by the Village.
- e. *Exterior Facing* shall mean work subject to this section or Section 21-323 which faces a property which is not owned by the applicant, or is not located in the B Business District.

- f. *Interior* shall mean work subject to this section or Section 21-323 which is not Exterior Facing.
- (2) Site plan review and approval as hereinafter provided shall be required prior to issuance of a building permit for any new Development, modification, or redevelopment, including an amendment to a previously approved site plan, that would result in one or more of the following:
- a. A horizontal shift of the exterior-facing boundaries of the existing building footprint of any Structure which results in an increase in Floor Area Ratio or lot coverage;
 - b. An increase in the height of any existing Structure;
 - c. Alterations to existing physical features affecting traffic circulation or access patterns between the site and any right-of-way; or
 - d. A change in use of a Structure, or any part thereof, to a Conditional Use as listed in Section 21-316
 - e. A reduction or relocation of more than ten percent of the parking spaces existing on a Development Site.
- (3) Site plan review and approval shall not be required for the following activities:
- a. A change in use to a Permitted Use listed in Section 21-316(a); or
 - b. Proposed work which is limited to any interior improvement, remodeling or renovation which is not visible from the ground level, or from the first three floors, of a residential property; or
 - c. Construction or improvement of Municipal Buildings.
- (4) A site plan application shall be presumed to be a major site plan unless the applicant demonstrates to the satisfaction of the Village Manager or designee that the proposed Development and/or Conditional Use will not significantly alter existing impacts to Adjacent premises or significantly increase the burden on existing infrastructure or public services, in which case it shall be reviewed as a minor site plan. In evaluating such impacts, the Village Manager or designee shall consider, as appropriate for the circumstances of the application:
- a. The extent to which the Development would create or alleviate environmental problems such as air or water pollution or noise;
 - b. The amount of pedestrian or vehicular traffic likely to be generated;
 - c. The number of persons, including employees, likely to be present;
 - d. The size of the Development;
 - e. The likelihood that additional or subsidiary Development will be generated; and
 - f. The extent to which the Development would create an additional demand for, or additional use of, energy, water, sewer capacity, road infrastructure, and other public services.
- (b) *Application.* The application shall be in a form prescribed by the Village Manager or designee, and shall be accompanied by a current survey, detailed site plan, a description of the intended use, a conceptual building plan and elevations, preliminary engineering plans, proposed preliminary design guidelines, exterior lighting plan, and a landscaping plan, as applicable, and in no event shall require disclosure of the name of the prospective tenant. The application shall be reviewed by the Village Manager or designee to determine whether the application involves a minor or major site plan, and whether any additional supporting documentation is required for review. A minor site plan application shall be accompanied by a nonrefundable fee of \$1,000.00. A major site plan application shall be accompanied by a nonrefundable application fee of \$3,500.00. The Village shall maintain a record of all costs of review of a major site plan application including, but not limited to, fees of Village staff and consultants and out of pocket costs. Prior to scheduling a major site plan application for a public hearing, the applicant shall pay the Village for all actual costs over \$3,500.00. The application fee does

not include the costs of advertising and public notice; all such advertising and public notice costs shall be borne by the applicant.

(c) *Review of Minor Site Plan Applications.*

- (1) *Procedure.* A minor site plan application shall be evaluated by the Village Manager or designee, for compliance with the criteria described in sub-paragraph (f) of this section. If the Village Manager or designee determines that more information is warranted, additional materials that are reasonably related to the application may be requested from the applicant. The Architectural Review Board shall review the application in accordance with sub-paragraph (d) below, and the Board's comments and recommendation, if any, shall be provided to the Village Manager or designee. The Village Manager or designee shall review the application, and the comments and recommendations of the Architectural Review Board, if any, and shall render a final written decision on the application within 21 days of the Architectural Review Board meeting on the application. At least seven days prior to the Village Manager or designee rendering a final decision, posted notice regarding the application shall be provided on the property and at a conspicuous location at Village Hall. The posted notices shall provide that any interested person may contact the Village Clerk and request a written notice of the final decision on the application. In issuing the final decision, the Village Manager or designee may attach conditions including, but not limited to, requirements for screening or buffering, landscaping, limitations on manner, scope, and extent of operation(s), changes in proposed construction, location or design of Buildings, and relocation of proposed open space or alteration of use of such space. The final written decision of the Village Manager or designee shall be mailed to the applicant and to any interested parties who have requested written notice of the decision, along with instructions on the process for an appeal.
- (2) *Expiration.* Failure to obtain a master building permit within 12 months from the approval of a minor site plan shall render the site plan approval void.
- (3) *Appeal.* If the applicant, or any other substantially affected party, disagrees with the final decision of the Village Manager or designee, the decision may be appealed by filing a written request with the Clerk accompanied by a \$500.00 appeal fee within 15 days of the date of issuance of the final decision. In the event of such appeal, the Village Council shall review the minor site plan application on a regularly scheduled agenda and shall have the power to approve, reverse or modify the decision of the Village Manager or designee. At its discretion, the Council may assess any portion of the costs associated with the appeal against the losing party to the appeal, or may order the appeal fee refunded to the appellant.

(d) *Advisory Review of Site Plan Applications by the Architectural Review Board.* The Architectural Review Board shall review each major and minor site plan application.

- (1) *Criteria for ARB Review.* The Board shall evaluate the application under the following review criteria, and the design and aesthetic appearance of the site and Buildings. Definitions of capitalized terms shall be as defined in this Chapter and Section 5.5-2 of the Code.
 - a. The Exterior Building Components and External Architectural Features shall have Attractive and cohesive Architectural Character.
 - b. The orientation, appearance and design of External Architectural Features of new and existing Buildings and Structures, and/or additions or modifications to existing Buildings and Structures, shall indicate sensitivity to and shall be compatible with the Streetscape and Adjacent Buildings and Structures, enhance the appearance of surrounding properties, and create or maintain important view corridor(s).
 - c. Landscaping and paving materials shall ensure a cohesive relationship with and enhancement of the overall site plan design.
 - d. Buffering materials shall ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, Adjacent properties and pedestrian areas.

- e. Colors shall be subtle and harmonious with the Landscaping and nearby Buildings and Structures. Bright or brilliant colors shall be used for accent only.
 - f. All rooftops of buildings with flat roof decks, including parking garage roof decks, shall be designed to minimize negative appearances by screening Mechanical Equipment and Utility Hardware, and by minimizing the ponding of stormwater through use of drains and scuppers. Rooftops shall be designed to allow for the continued maintenance of the roof surface in an attractive manner in accordance with Section 21-324
 - g. Mechanical Equipment and Utility Hardware on roofs, ground or buildings shall be screened from public view with materials harmonious with the building, or shall be located so as not to be visible from streets, Waterways, service alleys, and adjoining properties. Screening shall be of such material and color so that it matches or blends with the existing roof or portion above the top floor where it is installed. This provision shall not be interpreted to require screening of Mechanical Equipment and Utility Hardware from adjoining buildings that may exceed the height of the rooftop upon which the Mechanical Equipment or Utility Hardware is installed. In this instance, only screening to the maximum height of the equipment or hardware is required.
 - h. The choice of materials and their usage shall be conducive to regular maintenance and durability in accordance with Section 21-324
- (2) *Conditions.* The Board may recommend to the Village Manager or designee specific conditions to address potential incompatibility, to better address the applicable criteria, or other impacts to surrounding properties.
 - (3) *Additional Reviews.* The initial review by the Board is mandatory for each site plan application proposed. All subsequent reviews by the Board, should they be requested, are at the option of the applicant.
 - (4) *Response to ARB Review.* If the Board does not recommend approval of the site plan and the applicant elects not to pursue further review by the Board, the Board's position on the site plan and any comments discussed at the meeting shall be included within the staff report to the Village Manager (for an application for minor site plan approval) or the Village Council (for an application for major site plan approval), as applicable.
- (e) *Staff Review of Site Plan Applications.* The Village Manager or designee shall review the application when complete and shall prepare a staff report to the Village Council (for an application for major site plan approval), or to the Architectural Review Board (for an application for minor site plan approval), as applicable. The staff report shall include a recommendation for approval, approval with conditions, or denial of the site plan.
 - (f) *Village Council Determination of Major Site Plan Applications.* The Village Council shall consider the major site plan application at a public hearing that is noticed in the manner set forth in Section 21-52. The Village Council may approve, approve with conditions, defer or deny the application. In rendering its decision, the Village Council shall consider the Village Manager or designee's recommendation. Approval of the proposed application and intended use shall require a finding that the major site plan and intended use(s):
 - (1) Are designed and scaled to be compatible with and avoid depreciation of Adjacent properties and to minimize adverse impacts to Adjacent Development and the surrounding neighborhood by virtue of the proposal's nature, location, design, Building mass, intensity of use, or mitigation measures; and
 - (2) Will not create excessive noise, traffic, illumination or other adverse impacts; and
 - (3) Provide for safe, efficient, convenient and harmonious groupings of Structures, uses and facilities and for appropriate relationship of space inside and outside of Buildings to intended uses and to structural and architectural features within the site; and

- (4) Uphold the basic intent and purpose of zoning and other land use regulations, observing the spirit of the regulations and assuring public safety and welfare, without tending to create a fire or other equally or more dangerous hazard or provoke the excessive overcrowding or concentration of people or population.

In connection with the approval of the application, the Village Council may impose reasonable limitations on the permissible uses, and conditions for Development and operation to ensure the compatibility of the uses with Adjacent Development(s) and the surrounding neighborhood and the mitigation of any adverse impacts from the proposed Development. Such mitigation may include, without limitation, screening or buffering, landscaping, limitations on manner, scope, and extent of operation(s), changes in proposed construction, location or design of Buildings, relocation of proposed open space or alteration of use of such space, changes in traffic circulation or signalization, and any other matter reasonably calculated to address potential impacts to Adjacent Development and the surrounding neighborhood.

- (g) *Extensions of Major Site Plan Approvals.* Failure to obtain a building permit within 18 months of the Village Council's approval of the application shall render the major site plan void, unless after good cause shown, an extension to this timeframe has been granted by the Village Council. The major site plan extension shall be advertised and noticed in the same manner as a major site plan application. The Village Council shall consider the Village Manager or designee's recommendation on the major site plan extension and render its decision after a public hearing.
- (h) *Development Agreement.* As a condition of a major site plan application, a Development Agreement, or amendment to an existing Development Agreement, may be required in order to mitigate the impacts that the proposed Development will have on the Village. The Development Agreement shall provide for one or more of the following, as appropriate for the circumstances of the application: (1) the applicant's dedication of property and/or construction of facilities to mitigate its impacts upon the Village; (2) any deed restrictions, covenants, and bonded commitments that are necessary and acceptable to the Village to ensure timely completion of the Development according to the approved major site plan; (3) any new or continuing operational obligations and maintenance of areas, functions and facilities which are not proposed to be provided, operated or maintained at public expense; and (4) any other matter determined by the Village to be appropriate to mitigate impacts of Development. Unless otherwise specifically agreed to in the Development Agreement and otherwise approved by variance in the manner provided for in this Chapter 21, construction of all Structures shall comply with all provisions within the Village Code of Ordinances. If approved, the Development Agreement shall be recorded at the applicant's expense in the Miami-Dade County public records.

(Ord. No. 566, § 2, 11-20-12; Ord. No. 573, § 2, 2-18-14; Ord. No. 574, § 4, 6-17-14)

Sec. 21-323. - Aesthetic review.

- (a) The Village Manager or designee shall review all plans and specifications submitted in connection with an application for a building permit which, based on the determination of the Village Manager or designee, will significantly affect the appearance of existing Development, as defined in Section 21-322. For purposes of this section, a significant change to the appearance of existing Development shall mean a substantial change to the existing color scheme of approved Development, the creation of one or more new openings in an existing building facade, a visible change in the materials used in existing Development, or a substantial reduction in the amount of existing landscaping. The following procedure shall apply:
- (1) *Application review procedure.* The application shall be evaluated by the Village Manager or designee for aesthetic consistency and compatibility with existing Development, pursuant to the criteria provided in subsection 21-322(d)(1). Within 14 days of receipt of the application by the Village Manager or designee, the Village Manager or designee shall render a decision on the application, or shall forward the application to the Architectural Review Board for consultation. The Architectural Review Board shall review the application at its next regularly scheduled meeting pursuant to the criteria provided in subsection 21-322(d)(1), and the Board's comments

and recommendation, if any, shall be provided to the Village Manager or designee. The initial review of the application by the Architectural Review Board, if requested by the Village Manager or designee, is mandatory. Subsequent reviews by the Board, should they be requested, shall be at the option of the applicant. If the application was reviewed by the Architectural Review Board, the Village Manager or designee shall review the application and the comments or recommendations of the Architectural Review Board, if any, and render a final written decision within 14 days of the Architectural Review Board meeting on the application.

- (2) *Notice.* At least seven days prior to the Village Manager or designee rendering a final decision, posted notice regarding the application shall be provided on the property and at a conspicuous location at Village Hall. The posted notices shall provide that any interested person may contact the Village Clerk and request a written notice of the final decision on the application. The final written decision of the Village Manager or designee shall be mailed to the applicant and to any interested parties who have requested written notice of the decision, along with instructions on the process for an appeal.
 - (3) *Appeal.* If the applicant, or any other substantially affected party, disagrees with the final decision of the Village Manager or designee, the decision may be appealed by filing a written request with the Clerk accompanied by a \$500.00 appeal fee within 15 days of the date of issuance of the final decision. In the event of such appeal, the Village Council shall review the application on a regularly scheduled agenda and shall have the power to approve, reverse or modify the decision of the Village Manager or designee. At its discretion, the Council may assess any portion of the costs associated with the appeal against the losing party to the appeal, or may order the appeal fee refunded to the appellant.
- (b) The aesthetic review and approval requirement of this section shall not be required for the following activities:
- (1) Proposed work which is limited to any interior improvement, remodeling or renovation which is not visible from the ground level, or from the first three floors, of a residential property; or
 - (2) Construction or improvement of Municipal Buildings.

(Ord. No. 573, § 3, 2-18-14; Ord. No. 574, § 5, 6-17-14)

Sec. 21-324. - Maintenance for aesthetic appearance.

The maintenance standards in subsection (1) and (2) shall only apply to any areas that are visible from the property line at the ground level, or visible to drivers and pedestrians accessing the property from any public or private drive, public sidewalk or parking area.

- (1) *Site.*
 - a. Landscape materials, other than plantings, which have deteriorated or have been damaged or defaced, shall be properly repaired or replaced.
 - b. Plant Materials which have deteriorated or died shall be replaced with healthy plantings, or the area shall be redesigned with other treatment to provide an attractive appearance.
 - c. Plantings shall be kept watered, fed, cultivated, and pruned as required to give a healthy and well groomed appearance during all seasons. Grass shall not be permitted to grow to a length over six inches.
 - d. Parking areas shall be kept in good repair, properly marked and clear of litter and debris.
 - e. Vacant property shall meet the above standards and be kept free of refuse and debris in accordance with the Village Code. Growth of grass or weeds over 12 inches shall not be permitted.
- (2) *Buildings and appurtenances.*

- a. Buildings and appurtenances, including signs, shall be cleaned, painted or repaired regularly and as required to present a neat appearance.
 - b. Deteriorated worn or damaged portions shall be rebuilt or replaced.
 - c. Building and sign illuminating elements shall be replaced as required to maintain the effect for which they were designed.
- (3) *Roofs.* Roofs shall be structurally sound, watertight and shall be designed to prevent rainwater or moisture from entering the walls, ceilings or any other portion of the building or structure. All roofs and gutters shall be kept free of faded or chipped paint, and shall be maintained in good repair and condition to prevent deterioration, and shall be cleaned (by pressure or chemical washing), repainted, or recovered with like material when ten percent or more of any exposed roof surface becomes discolored, is stained, or is scaling. In the event a roof shingle or tile is replaced, the replacement shingle or tile shall be of the closest possible color and shade to the existing roofing shingles or tiles. Rooftop parking areas shall be kept in good repair, properly marked and clear of litter and debris.
- (4) *Public property.*
- a. Sidewalks, curbs and gutters, roadside berms and other public improvements in the public right-of-way shall be repaired and maintained as necessary in order to present a neat appearance.
 - b. Refuse containers of an aesthetically satisfactory design and color shall be placed in locations which will encourage their use.
 - c. Street Hardware shall be erected and secured properly, and shall be cleaned or painted regularly to present a neat appearance. Signs shall be treated similarly.

(Ord. No. 574, § 6, 6-17-14)

Secs. 21-325—21-335. - Reserved.

DIVISION 12. - P OFF-STREET PARKING DISTRICT

FOOTNOTE(S):

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Cross reference— Parking restrictions in the "P" Off-Street Parking District. [\(Back\)](#)

Sec. 21-336. - Permitted uses.

No Building or land shall be used and no Building shall be erected or constructed on any lot in the P Off-Street Parking District except for the following uses: parks, playgrounds, municipal buildings, and Parking Lots owned and operated by the Village.

(Ord. No. 169, § 6-11(a), 6-29-74)

Sec. 21-337. - Boundary designation.

The boundary of the P Off-Street Parking District shall consist of the following lot and block numbers or tract numbers:

- (1) That part of the access right-of-way lying between the dedicated right-of-way of West Bal Harbour Boulevard and Collins Avenue.
- (2) Lots 1 and 2 in Block 1 of the Residential Section of Bal Harbour.

(Ord. No. 169, § 6-11(b), 6-29-74)

Secs. 21-338—21-350. - Reserved.

ARTICLE IV. - SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 21-351. - Compliance with district regulations.

In all zoning districts as listed and designated in section 21-76, no Building or land shall be used and no Building shall be erected, constructed, reconstructed or structurally altered which is designed, arranged or intended to be used or occupied for any other purpose than the classification and requirements as listed under each zoning district.

(Ord. No. 169, § 5-1, 6-29-74)

Sec. 21-352. - Multiple dwellings, Hotels, apartments to provide off-street parking.

Every Building or Structure erected or structurally altered for multiple dwellings, Hotels or apartments shall provide off-street parking, either by garage space or a Parking Area or both, on the same Property and in compliance with all of the district regulations established by this chapter for the district in which the Building is located. If the garage area is apart from the main Building, such area shall comply with the requirements of chapter 6 and this chapter.

(Ord. No. 169, § 5-2, 6-29-74)

Sec. 21-353. - Setbacks generally; exceptions for swimming pools in certain districts; requirements for Pool Construction or modification in Bulkhead Setback Areas.

- (a) No Building or parts or projections of Buildings shall encroach on Setback or Yard areas, nor shall the density of population be increased in any manner, except in conformity with the regulations established under section 21-354
- (b) On lots in the R-1, RM-4, RM-5 and PC Districts which front on either Indian Creek or Biscayne Bay, swimming pools shall be:
 - (1) Set back a minimum of 20 feet from the outer face of the Seawall, or the distance between the outer face of the Seawall and the inner edge of the Seawall tieback, whichever is greater and comply with the procedures set forth in section (2) below and all other district regulations, including other Setback requirements as listed in this Code;
 - (2) Constructed as follows:
 - a. *Approval of plans.* Complete design plans, construction documents, and calculations encompassing all work necessary for construction or modification of pools including supports and modification of the Bulkhead and Bulkhead supports (collectively "Pool Construction") within 40 feet of Bulkheads ("Bulkhead Setback Areas") shall be prepared, signed and sealed by a certified professional engineer and submitted to the Village for approval prior to Pool Construction in Bulkhead Setback Areas ("Approved Plans"). Pools within Bulkhead Setback Areas shall be supported by pilings independent of bulkhead pilings, and shall not rely on the soil for lateral support of pool walls. A new bulkhead lateral support system shall be utilized which is independent of the pool and existing bulkhead support system. New bulkhead support systems may utilize batter piles outboard of the Bulkhead. Grade within five feet of the Bulkhead shall be essentially level, and commencing with the top of the Bulkhead, grade within this five-foot zone shall slope upward a maximum of one inch per foot. If Pool Construction impinges on lateral support of Bulkheads, Pool Construction shall be modified to obviate any impingement.

- b. *Special Inspector.* The Building Official may require that Pool Construction in Bulkhead Setback Areas be performed under the direct supervision of a special inspector who shall be a registered architect or professional engineer employed by the owner ("Special Inspector"). The Special Inspector shall submit progress and inspection reports to the Building Official. The Special Inspector shall observe all Pool Construction and shall attest, by Affidavit before completion of Pool Construction and while structural components of Pool Construction are still visible, to the following:
 - 1. All observations regarding Pool Construction and impact on nearby Bulkheads;
 - 2. Any adverse impact of Pool Construction which may affect the structural integrity and stability of Bulkheads;
 - 3. Potential safety hazards during hurricane conditions; and
 - 4. The fact that the structural integrity of the Bulkhead has not been adversely affected by Pool Construction, and that Pool Construction meets the requirements of these conditions, all other applicable Codes and Ordinances, and is in substantial compliance the Approved Plans.
- c. *Release and Indemnification.* The owner shall sign a "Release and Indemnification Agreement" in a form acceptable to the Village concerning damage which may occur as a result of Pool Construction or remediation in Bulkhead Areas.
- d. *Remediation.* Village may require that all work not performed in accordance with these conditions or Approved Plans be corrected at the property owner's expense.

(Ord. No. 169, § 5-3, 6-29-74; Ord. No. 316, § 1, 6-21-88; Ord. No. 334, § 1, 7-18-89)

Sec. 21-354. - Projections into Setback areas.

- (a) *Chimneys.* Chimneys may project into side and rear Yards a distance not to exceed 24 inches, provided that a clear space of not less than 88 inches is left between such projection and the Lot Line adjacent. The horizontal dimension of the chimney at right angles to the projection shall not exceed six feet.
- (b) *Outside stairs, stair landings.* No outside stairs or stair landings over three feet six inches in height above the Grade of the centerline of the Street shall extend into side, rear, or front Yards. Stairs or stair landings not exceeding 42 inches in height may be railed, provided that such railing shall not exceed in height above Grade that specified for walls or hedges in that district, and further, that there shall be a clear, unobstructed passage of not less than 88 inches between such projection and the Lot Line adjacent. Platforms or terraces not exceeding 42 inches in height may extend across side and rear Yards, provided that there shall be ramps or steps at least 36 inches wide on opposite sides to provide unobstructed passage over such projections.
- (c) *Areaways, steps to basements.* Areaways, steps to basements and similar features will be permitted in side and rear Yards, provided that no part of such feature shall exceed, in height, 42 inches above Grade of the centerline of the Street, and that the projection shall not exceed 24 inches, and provided further that there shall be a clear, unobstructed passage of not less than 88 inches between such features and the Lot Line adjacent. Steps extending not more than four feet from the main Building and not more than 42 inches in height above Grade, leading to the basement or ground floor, may be constructed in the side Yard on the street side of a Corner Lot.
- (d) *Fire escapes.* Where permitted under the provisions of chapter 6, open-type metal fire escapes may project 48 inches into side and rear Yard areas, provided that the bottom run shall be counter-balanced and that when the bottom run is up, there shall be at least nine feet clear headroom below it. The bottom run shall be adjacent or parallel to the Building and shall be so arranged that, when down, there shall be at least 88 inches of clear, unobstructed passage between it and the Lot Line adjacent.

- (e) *Architectural features.* No main walls of any Building shall encroach on the Yard areas, but architectural features such as canopies, cantilever slab projections (open balconies), cornices, eaves and similar features may project into the side and rear Yards subject to the following:
 - (1) In the Ocean Front District, balconies and other ornamental architectural features above the first story may be extended not more than four feet into the Setback areas, and there shall be not less than ten feet of clear headroom under the lowest such projection.
 - (2) In all other zoning districts, architectural features may project into the side and rear Yards not more than 36 inches, and there shall be not less than seven feet of clear headroom under any such projection.
- (f) *Terraces.* Open terraces projecting into front and side Yards shall not exceed, in height, three feet six inches above the Grade of the center of the Street, and the railing of such terrace shall in no case exceed the height specified for walls in that district. Where necessary to provide access through the side yards, terraces shall be provided with steps or ramps and gates not less than 36 inches in width.
- (g) *Mechanical equipment.* Mechanical equipment shall not be placed in required side Setbacks.
(Ord. No. 169, § 5-4, 6-29-74; Ord. No. 297, § 2, 10-18-86)

Cross reference— Satellite dish antenna projection into setback areas, § 6-170(d).

Sec. 21-355. - Accessory Buildings.

- (a) Unless specifically permitted in the district regulations, Accessory Buildings shall not occupy in aggregate more than 20 percent of the maximum Lot area.
- (b) No Accessory Building, including Cabanas, shall be constructed except concurrently with or subsequent to the construction of the main Building.
- (c) In addition to other applicable requirements, the following requirements shall apply to canvas structures used as Carports:
 - (1) Color canvas used shall complement the color of the home which it serves. Tints and shades of home color shall be acceptable.
 - (2) Carports must be screened so as not to be seen from the Street.
 - (3) Carport structures shall be designed to incorporate architectural elements of the residence or other primary building on the property. Metal framing structures shall be clad with architectural materials.

(Ord. No. 169, § 5-5, 6-29-74; Ord. No. 297, § 3, 10-28-86; Ord. No. 438, § 6, 4-20-99)

Sec. 21-356. - Area restrictions, Single Family and Multiple Family Districts.

In all Single Family and Multiple Family Residential Districts (R and RM Districts) a residential or apartment site may consist of one or more Lots. All of one Lot and part of another, or contiguous parts of more than one Lot, or any other combination of contiguous parts of Lots, will form an integral unit of land suitable for use as a site for a residence or an apartment, provided the unit of land extends from the Street serving it to the rear boundary or to the waterfront boundary; but no site shall have a frontage of less width than is contained in the largest adjoining lot shown on the record plat. For all purposes of this chapter and all the restrictions contained in this chapter, the unit of land so formed for use as a residential site, or for an apartment site where apartments are allowed to be built, shall be considered to be a Lot to the same extent as though it had been laid out and platted as one.

(Ord. No. 169, § 5-6, 6-29-74)

Sec. 21-357. - Area restrictions, Ocean Front District.

In the OF Ocean Front District (OF District), none of the Lots shall at any time be divided or reduced to a width of less than 200 feet. No Building of any kind shall be constructed or maintained on any parcel of land in the OF District which parcel does not extend from the Atlantic Ocean to the western boundary line of the lands and which parcel is less than 200 feet in width in a northerly and southerly direction.

(Ord. No. 169, § 5-7, 6-29-74)

Sec. 21-358. - Walls, fences and landscape plantings.

- (a) In the Single Family Residential Districts (R Districts), Private Club District (PC District) and the Multiple Family Residential Districts (RM Districts), no wall or fence shall be erected outside of the Building Lines which is higher than five feet above the elevation of the centerline of the adjoining Street. Notwithstanding the above, in the R-2 Single Family Residential District, walls or fences which are within the Front Building Line Area and are parallel to the front property line shall be structured to the following design criteria:
 - (1) A maximum of two feet of opaque wall surface above grade shall be permitted.
 - (2) The balance of allowable wall/fence height up to the maximum five-foot height may be constructed of nonopaque material such as wrought iron, aluminum, decorative open weave concrete or clay products, glass block and similar materials. Supplemental landscaping acceptable to the Village Architectural Review Board (ARB) shall be provided on the street side of any such wall or fence.
 - (3) Any such wall shall be decorative, with finishes on both sides and compatible with the dwelling architecture.
 - (4) The Architectural Review Board (ARB) may grant exceptions to the design criteria stated herein based on creative and compatible design solutions.
- (b) In Blocks 1 and 12 in zoning districts R-1, RM-4 and RM-5, no wall or fence more than four feet in height shall be created between the Seawall and the front Setback line.
- (c) In the Ocean Front District (OF District) ~~and Business District (B District)~~, no boundary wall or fence shall be constructed which is more than six feet above the elevation of the center of the adjoining Street.
- (d) In the Business District (B District), no boundary wall or fence shall be constructed which is more than twenty feet above the elevation of the center of the adjoining Street along Bal Bay, Bal Cross and Park Drive, and no more than six feet above the elevation of the center of the adjoining Street along Collins, Harding and 96th Street.
- ~~(e)~~ (d) In all zoning districts, ornamental entrances, fountains, rotisseries, flower bins and similar architectural features exceeding the wall height restriction will be permitted, provided that:
 - (1) No such feature shall exceed in height the wall height restriction for that district plus three feet.
 - (2) There shall be only one such feature in any front, side or rear Yard, except that there may be two entrance gates.
 - (3) There shall be at least ten feet between any such feature and any part of any Building on the same Lot, measured at right angles from the feature.
 - (4) Such features shall not restrict passage through front, rear or side Yards to less than 88 inches in any place.
- (f) (e) Hedges of living vegetation in the P.C. District may be kept and maintained with the same limitations for walls in said district. In all other districts, hedges may be kept and maintained without any height limitation, provided such hedges are neatly trimmed and do not interfere with traffic or visibility on public rights-of-way.
- (g) (f) Planting of vegetation in Easement Areas.

- (1) No trees may be planted within any easement as shown on the recorded plats of the various subdivisions of the Village ("Easement Areas"), unless approved by the Village Council and the owner of the easement. Nothing in this section shall be construed to prohibit the planting of low-growth Landscaping in Easement Areas ("Easement Landscaping"). Easement Landscaping is subject to removal by the Village without notice in the event that the Easement Landscaping impedes access to Easement Areas. The Village shall not be responsible for damage to Easement Landscaping removed.
- (2) Prior to planting of low-growth Landscaping in Easement Areas, a Landscaping plan shall be provided to the Village for review to ensure compliance with subsection (f)(1) of this section.
- (3) Prior to planting of low-growth Landscaping in Easement Areas, the Owner shall execute a Permission for Removal, Release and Indemnification Agreement, in a form acceptable to the Village, pertaining to low-growth Landscaping in Easement Areas.

(Ord. No. 169, § 5-8, 6-29-74; Ord. No. 297, § 4, 10-28-86; Ord. No. 330, § 1, 5-16-89; Ord. No. 348, § 1, 7-17-90; Ord. No. 438, § 6, 4-20-99)

Sec. 21-358.1. - Xeriscape landscaping practices.

Properties within all zoning districts are encourage to utilize Xeriscape landscaping practices and, where feasible, native vegetation to simultaneously enhance the appearance of the property while requiring less water and energy. Xeriscape practices in the Village shall be based on the latest edition of the South Florida Water Management District Xeriscape manual in terms of both plant selection and placement.

(Ord. No. 356, § 3(5-8a), 11-13-90)

Sec. 21-359. - Docks, wharfs and Groins.

- (a) No dock, wharf or Structure of any kind shall be erected, constructed or reconstructed so as to extend more than eight feet beyond the Seawall or higher than three and one-half feet above the mean high tide, and no cover shall be permitted to be erected in connection with any dock except temporary boat awnings which may not extend over eight feet above mean high tide, except that the restrictions in this subsection do not apply in the Business (B) District.
- (b) The maximum length of all Groins seaward from the established ocean Bulkhead line shall be 300 feet. Upon completion of all Groins or other shore protection work, the contractor shall submit to the Building Inspector a certificate of compliance, by a registered engineer, that all requirements of the Village governing shore protection work have been complied with. If such requirements have not been followed, the contractor shall rectify any work found at variance with these requirements.

(Ord. No. 169, § 5-9, 6-29-74)

Sec. 21-360. - Floor elevations for dwellings west of Bal Harbour Boulevard.

The first floor elevation of all Single- and Multiple-Family Dwellings west of Bal Harbour Boulevard shall be not less than 30 inches above the elevation of the center of the Street upon which the Lot faces. The garage floor shall be not less than six inches above the elevation of the center of the Street upon which Lot faces.

(Ord. No. 169, § 5-10, 6-29-74)

Sec. 21-361. - Utility lines and connections.

- (a) In all zoning districts, the electric and telephone wires from all utility easements shall be run underground only.
- (b) Water and sewer service connections shall be of a type and design approved by the Village.

- (c) Sanitary waste lines shall be directly connected to the municipal system of sewers. No septic tanks or package treatment plants shall be permitted in any zoning district. No sanitary effluent shall be discharged into the groundwater.
- (d) No rainwater or groundwater collection systems or facilities shall be connected to the municipal system of sanitary sewers.

(Ord. No. 169, § 5-11, 6-29-74)

Sec. 21-362. - Unauthorized uses prohibited in Single Family Residential Districts.

- (a) Every use not specifically authorized and permitted by this chapter in a Single Family Residential District is prohibited in such districts, and nothing in this chapter shall authorize or be construed to permit the use of any part of the premises as a business, office or establishment open to the public for the purpose of carrying on any business or the practice of rendering personal, trade or professional services open to the public or for any other purpose other than as a residence.
- (b) No open houses, garage sales, auctions, estate sales, or similar activities shall be permitted in any residential district; provided, however, that licensed real estate brokers may conduct open houses by a personal written invitation only and which are otherwise conducted in compliance with all other provisions of this Code.

(Ord. No. 169, § 5-12, 6-29-74; Ord. No. 345, § 4, 2-20-90)

Cross reference— Code enforcement, § 2-181 et seq.; R-1 Single Family Residential District, § 21-96 et seq.; R-2 Single Family Residential District, § 21-121 et seq.

Sec. 21-363. - Vacation Rental uses.

- (a) *Intent.* Bal Harbour Village, Florida recognizes that the unregulated rental of single-family, two-family, multi-family or townhouse dwelling units by seasonal residents uniquely impacts established residential areas, and that it is therefore necessary and in the interest of the public health, safety and welfare to monitor and regulate the rental of such dwelling units.
- (b) *Applicability.* This section shall apply to Vacation Rental uses, as defined in section 21-1
- (c) *Vacation Rentals prohibited unless in compliance with this chapter.* No person shall rent or lease all or any portion of a dwelling unit as a vacation rental as defined in section 21-1 without first (i) obtaining a business tax receipt from the Village pursuant to Chapter 9, "Business Regulations and Business Tax," of the Code, and (ii) complying with the regulations contained in this section. No person shall allow occupancy or possession of all or any portion of a dwelling unit as a vacation rental if the dwelling is in violation of any zoning, building, housing, density, life/safety and fire codes or regulations. No person shall allow occupancy or possession of all or any portion of a dwelling unit for any period of time less than six consecutive calendar months.
- (d) *Vacation Rental certificate.* Any property owner, who wishes to use his or her dwelling unit as a Vacation Rental, as defined in section 21-1, must first apply for and receive a Vacation Rental certificate from the Village. A new Vacation Rental certificate is required for each rental period for which the Vacation Rental is rented. No more than two Vacation Rental certificates shall be issued within a 12-month period. Failure to comply with any of the requirements of this section shall be grounds for enforcement in accordance with Article V, "Code Enforcement," of Chapter 2, "Administration," of this Code.
- (e) *Application for a Vacation Rental certificate.* Each property owner seeking a Vacation Rental certificate shall, no later than 15 days prior to the scheduled date of the desired rental period, submit an application in a form specified by the Village Manager or designee, along with an application fee in an amount to be determined by resolution of the Village Council. At a minimum, the application shall include all of the following:

- (1) The name, address, phone number, and email address of the owner(s) of record of the dwelling unit for which a certificate is sought; and
 - (2) The address of the unit to be used as a Vacation Rental; and
 - (3) The name, address, phone number, and email address of the designated Vacation Rental agent; and
 - (4) The owner's sworn acknowledgement that he or she has received a copy of this section, has reviewed it and understands its requirements; and
 - (5) Proof of compliance with Chapters 212 (Florida Tax and Revenue Act) and 509 (Public Lodging Establishments), Florida Statutes, and Rules 69A-43 (Uniform Fire Safety Standards for Transient Public Lodging Establishments) and 69A-60 (the Florida Fire Prevention Code), Florida Administrative Code, where applicable; and
 - (6) A copy of the valid annual Vacation Rental inspection report as required by subsection (11); and
 - (7) A detailed sketch of the Vacation Rental property's floor and site plan, including but not limited to square footage, number of bedrooms, kitchen, pool and Parking Areas; and
 - (8) The number and location of designated parking spaces legally available for occupants of the Vacation Rental, excluding public parking spaces; and
 - (9) An indication of whether pets will be allowed in the Vacation Rental; and
 - (10) The owner's agreement to use his or her best efforts to assure that the Vacation Rental use of the dwelling unit will not disrupt the residential character of the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their residences; and
 - (11) A written agreement between the owner and the occupant(s) which shall acknowledge all of the following:
 - a. The name of all persons who will be occupying the unit; and
 - b. The license tag numbers for all vehicles that the occupant(s) will be parking at the unit, with a total number not to exceed the number of legal parking spaces at the unit, as designated on the Vacation Rental certificate; and
 - c. The occupant(s)' agreement to abide by all the requirements of this section, and acknowledgement that his or her rights under the agreement may not be transferred or assigned to anyone else; and
 - d. The occupant(s)' acknowledgement and agreement that violation of the agreement or this section may result in immediate termination of the agreement and eviction from the Vacation Rental unit by the owner or resident agent, and potential liability for payment of fines levied by the Village.
 - (12) Any other information that this section requires the owner to provide to the Village as part of application for a Vacation Rental certificate.
- (f) *Annual inspections/re-inspections of Vacation Rentals.*
- (1) Prior to approval of a Vacation Rental certificate, an inspection of the dwelling unit for compliance with zoning, building, housing, density, life/safety and fire codes or regulations is required to be conducted by a Village Code Inspector. If violations are found, all violations must be corrected and the dwelling unit must be re-inspected prior to issuance of any Vacation Rental certificate as provided herein.
 - (2) Dwelling units used for Vacation Rentals must be properly maintained and must be re-inspected annually.
 - (3) If the Code Inspector(s) has made an appointment with the property owner to complete an inspection, and no adult person was at the dwelling unit to admit the inspector at the scheduled

time, the applicant shall be charged a "no show" fee in an amount to be determined by resolution of the Village Council to cover the expense incurred by the Village.

- (4) If the inspector(s) is denied admittance by the property owner, or if the inspector(s) fails in at least three attempts to complete an initial or renewal inspection of the dwelling unit because there was no adult person present to admit him or her, the inspector(s) shall provide notice of failure of inspection to the property owner by certified mail or other legal service to the address shown on the existing Vacation Rental certificate or the application for Vacation Rental certificate. Within ten days after receipt or refusal of such notice, the property owner shall arrange for the inspector(s)' access to the dwelling unit for the completion of the required inspection.
- (g) *Code violations.*
- (1) If an owner of a dwelling unit used for Vacation Rentals has been cited and found to be in violation of a zoning, building, housing, density, life/safety or fire code or regulation by the Code Enforcement Special Magistrate, the order of the Special Magistrate shall include payment of an administrative fee for each required inspection or re-inspection of the dwelling unit in an amount to be determined by resolution of the Village Council. The required inspection fees shall be included as part of the administrative costs assessed by the Village and shall be included in any liens filed by the Village.
 - (2) Each day of renting a dwelling unit for Vacation Rental use without having a valid Vacation Rental certificate shall constitute a separate and distinct violation of this section.
- (h) *Vacation Rental agent.*
- (1) The property owner shall designate a Vacation Rental agent on its Vacation Rental certificate application, and provide the agent's name, address, phone number, and email address. The property owner may serve as the Vacation Rental agent. Alternatively, the owner may designate as his or her agent any natural person 18 years of age or older, who is (i) customarily present at a business location within the Village for the purposes of transacting business, or (ii) actually resides within the Village. In order to be designated a Vacation Rental agent, a person must first present the Village with written certification that he or she agrees to perform the duties specified in [subsection] (2) below.
 - (2) The duties of the Vacation Rental agent are to:
 - a. Be available at the listed phone number 24 hours a day, seven days a week to handle any problems arising from the Vacation Rental use; and
 - b. Be able and willing to come to the Vacation Rental dwelling unit within three hours following notification from the Village of issues related to the Vacation Rental; and
 - c. Receive service of any notice of violation of this section; and
 - d. Monitor the Vacation Rental dwelling unit at least weekly to assure continued compliance with the requirements of this section.
 - (3) Vacation Rental agent status may be suspended or revoked by the Village Manager if a Vacation Rental agent fails to perform any of the above-listed duties, after proper notice and hearing. The Village shall maintain a written record of its contacts with Vacation Rental agents, including a notation of whether the agent responded within the three hours and how the issue was resolved.
 - a. *Suspension.* The Village Manager may suspend a person's Vacation Rental agent status for any or all Vacation Rental property in the Village for minor violations for a period of time not to exceed three months, or until certain conditions have been complied with or violations cured.
 - b. *Revocation.* The Village Manager may revoke a person's Vacation Rental agent status for all Vacation Rental property in the Village for major or repeated violations. After revocation, the owner shall not reapply for a Vacation Rental agent status for any Vacation Rental

property in the Village until the basis for the revocation has been resolved and in no event prior to six months following the date of revocation.

- (4) An owner may change his or her designation of a Vacation Rental agent temporarily or permanently; however, there shall only be one Vacation Rental agent for each Vacation Rental property at any given time. To change the designated agent, the owner shall notify the Village in writing of the name, contact information and certifications required in (h)(1) above for the new Vacation Rental agent and pay the applicable fee, if any, determined by resolution of the Village Council. Any notice of violation or legal process which has been delivered or served upon the previous Vacation Rental agent, prior to the Village's receipt of notice of change of the Vacation Rental agent, shall be deemed effective service.
 - (5) It shall be the sole responsibility of the property owner to appoint a reliable Vacation Rental agent and to inform the agent of his or her correct mailing address. Failure to do so shall not be a defense to a violation of this section. No property owner shall designate as a Vacation Rental agent any person who does not expressly comply with the provisions of this section. The property owner or the Vacation Rental agent shall be deemed to be the "violation" of this section as the term is used in F.S. § 162.06. Service of notice on the Vacation Rental agent shall be deemed service of notice on the property owner, tenant and violator.
 - (6) A person may serve as a Vacation Rental agent for one or more Vacation Rental property owners if:
 - a. The agent provides the Village with written authorization from each owner represented; and
 - b. Each authorization must state that the owner has received a copy of, has reviewed and understands this section; and
 - c. Each owner must sign the authorization and acknowledge the requirements of this section.
- (i) *Vacation Rental occupants.*
- (1) The occupant(s) of each Vacation Rental dwelling unit shall receive a written copy of this section and the Village's pet, noise, and trash regulations.
 - (2) Occupants may only park in the spaces designated on the Vacation Rental certificate sketch.
 - (3) All occupants must evacuate from the Vacation Rental upon posting of any nonresident evacuation order.
- (j) *Vacation Rental dwelling unit.*
- (1) There shall be posted within the dwelling unit, all of the following information:
 - a. The name, address, phone number, and email address of the Vacation Rental agent; and
 - b. The maximum occupancy of the unit; and
 - c. The maximum number of vehicles that can be parked at the unit, along with a sketch of the location of the parking spaces; and
 - d. The location of the nearest hospital and police station; and
 - e. A legible copy of the Vacation Rental certificate; and
 - f. A legible copy of this section; and
 - g. A legible copy of the agreement between the owner and the Vacation Rental occupant(s), for the duration of the rental period covered by that agreement.
 - (2) Each Vacation Rental unit must contain the covered trash container(s) provided by the owner. Placement of trash container(s) for pickup shall be in compliance with Village regulations.
- (k) *No limitation of remedies.* Nothing in this section shall limit the Village from enforcement of its Code, state or federal law by any other legal remedy available to the Village. Nothing in this section shall be

construed to limit or supplant the power of the Inspector(s), Code Enforcement Inspector or Code Enforcement Special Magistrate under the Village's ordinances, rules and regulations and the authority granted under state law, to take necessary action, consistent with the law, to protect the public from property which constitutes a public nuisance as defined under state law or the Village's ordinances, codes or regulations or to abate a nuisance by any other lawful means or proceedings.

- (l) *Sale or transfer of dwelling unit used for Vacation Rentals.* Whenever a dwelling unit used for Vacation Rentals is sold or otherwise changes ownership and the new owner desires to use the unit for Vacation Rentals, the new owner must schedule and obtain an inspection of the dwelling unit prior to application for a Vacation Rental certificate.
- (m) *Appeals.* A revocation of Vacation Rental agent status by the Village Manager may be appealed to the Village Council, as provided in this subsection.
 - (1) *Applicability.* A person may file an appeal of a revocation or suspension of his or her Vacation Rental agent status.
 - (2) *Filing of appeal.* The appeal shall be filed within 30 days of receiving notice of the revocation or suspension by certified mail, in a form specified by the Village and accompanied by an application fee in an amount to be determined by resolution of the Village Council. Failure to file an appeal within 30 days shall constitute a waiver of all rights to appeal the revocation or suspension.
 - (3) *Notice and scheduling of appeal hearing.* The public hearing on the appeal shall be scheduled for the first available Village Council meeting following completion of the Village's review and evaluation of the application or such other time as is mutually agreed upon between the applicant and the Village Manager.
 - (4) *Appeal hearing.* At the public hearing, the Village Council shall consider the appeal application, the relevant support materials, the Village Manager's recommendations, and public testimony given at the hearing. If, at any time during the public hearing, the Village Council determines that the appeal is based upon incomplete or inaccurate information or misstatements of fact, it may deny the appeal or refer the application back to the Village Manager for further review and revised recommendations. The Village Council shall presume the original decision of the Village Manager was correct, and shall only overturn such decision where there has been an error of fact or law. At the close of the public hearing, the Village Council, by not less than a majority of the quorum present, shall approve a resolution granting, granting with conditions, or denying the appeal.
 - (5) *Judicial relief.* The applicant, or any aggrieved person who has opposed the appeal at the public hearing, may appeal the decision of the Village Council by filing a petition for writ of certiorari in the circuit court in and for Miami-Dade County, in accordance with the procedures provided by the Florida Rules of Civil Procedure and the Florida Rules of Appellate Procedure.
- (n) A Vacation Rental shall not be eligible for a variance for special events pursuant to section 11-30 of the Village Code; and
- (o) If applicable, the Vacation Rental shall comply with the resort tax provisions provided in Chapter 18, Article II of the Village Code.

(Ord. No. 549, § 3, 5-31-2011)

Sec. 21-364. - Portable storage units.

- (a) For purposes of this section, the term "portable storage unit" shall be as defined in Section 21-1
- (b) For purposes of this section, the Gated Residential Section of Bal Harbour shall be defined as including the following area:
 - (1) Lots 1 through 3, Block 12A, Resubdivision of Residential Section of Bal Harbour, Plat Book 53, page 15.
 - (2) All of Blocks 1, 2, 3, 4, 5 and 6, Residential Section of Bal Harbour, Plat Book 44, page 98.

- (3) All of Blocks 9, 10, 11 and 12, Residential Section of Bal Harbour, Plat Book 44, page 98.
- (4) Tract E, Residential Section of Bal Harbour, Plat Book 44, page 98.

Provided, however, that the area defined as the Gated Residential Section of Bal Harbour for purposes of this section shall exclude Lots 1 and 2 of Block 1 and Lot 3 of Block 12A.

- (c) The placement and use of portable storage units shall be prohibited within the Gated Residential Section of Bal Harbour, as defined in subsection (b) of this section.

(Ord. No. 564, § 3, 10-16-2012)

Secs. 21-365—21-380. - Reserved.

ARTICLE V. - OFF-STREET PARKING FACILITIES

FOOTNOTE(S):

--- (8) ---

Cross reference— Traffic and motor vehicles, ch. 19; Parking in P Off-Street Parking District, § 19-4.
([Back](#))

Sec. 21-381. - Generally.

- (a) Except as otherwise provided in this chapter, when any Building or Structure is erected or structurally altered, off-street parking spaces shall be provided in accordance with the regulations set out in this article.
- (b) In the Ocean Front (OF) District, 100 percent of required parking spaces shall be contained in a fully enclosed Parking Structure.
- (c) In all other zoning districts, off-street parking spaces may be located in surface parking facilities open to the sky, or within enclosed parking garages.

(Ord. No. 169, § 7-1, 6-29-74)

Sec. 21-382. - Interpretation of requirements.

- (a) *Alterations and change in use.* Whenever a Building, Structure or use is enlarged by the addition of floor area, number of units, employees, seating capacity or otherwise, which creates a requirement for increased off-street parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- (b) *Change in use.* When the use of any Structure or premises is changed, in total or part, to a different use, parking spaces shall be provided on the basis of the change in use.
- (c) *Mixed uses.* In the case of mixed uses within a Building or Structure, the parking spaces required shall equal the sum of the requirements of the various uses computed separately; unless otherwise approved by the Village Council based on a traffic and/or parking study submitted by the applicant meeting the technical specifications required by the Village Manager.
- (d) *Fractional remainders.* When the unit of measurement determining the number of required parking spaces results in the requirement of a fractional space, any fraction shall be counted as an additional parking space.
- (e) *Gross floor area.* When the unit of measurement determining the number of required parking stalls is based upon gross floor area, such area shall be calculated by measuring the total floor area from within the exterior surface of the walls of the Structure.

- (f) *Employees.* When the unit of measurement determining the number of required parking stalls is based on number of employees, the maximum shift or employment period during which the greater number of employees are present at the Structure or use shall be used in the computation.
- (g) *Plot plan.* Any application for a building permit or certificate of occupancy shall be accompanied by a plot plan, drawn to scale and fully dimensioned, showing the development of the Property, including the layout and development of any off-street parking facilities to be provided. All parking spaces shall be designated, as well as the access drives, screening, Landscaping and other improvements to be provided.

(Ord. No. 169, § 7-2, 6-29-74)

Sec. 21-383. - Location.

- (a) *On-site location.* All parking facilities shall be provided on the same Lot as the Structure or use served, except where specifically permitted to be located on a different Lot by other provisions of this section.
- (b) *Off-site location.* Off-street parking facilities for Hotels may be provided on a Lot other than the Lot on which the Structure or use served is located, provided that:
 - (1) No more than 25 percent of the total required spaces are located in off-site facilities.
 - (2) The off-site facilities are located in the same zoning district as the Structure or use served.
 - (3) Valet parking service is provided.
 - (4) The Owners of the land on which the facilities are to be provided shall record an agreement, approved by the Village Attorney as to form and content, in the office of the County Clerk, as a covenant running with the land for the benefit of the Village. The agreement shall provide that the facilities shall be continued so long as the Structure or use they are intended to serve is continued.

(Ord. No. 169, § 7-3, 6-29-74)

Sec. 21-384. - Number of spaces.

The schedule of off-street parking requirements shall be as follows:

- (1) *Single-family detached dwellings:* Two parking spaces for each dwelling unit, with not less than one space provided within a garage or Carport.
- (2) *Multiple-Family Dwellings:* One and one-half parking spaces for each dwelling unit, plus one additional space for each ten dwelling units in the total apartment complex, plus the required spaces for any business establishments contained within the complex.
- (3) *Hotels:* One parking space for each Guest Room capable of separate occupancy, plus one space for each 400 square feet of public assembly area, plus the required spaces for any business establishments contained within the complex.
- (4) *Business establishments:* ~~Four~~ 3.15 permanent parking spaces for each 1,000 square feet of occupied gross leasable floor area ~~or 90 percent of gross floor area, whichever is the greater,~~ except for the following uses:
 - a. Municipal Buildings.
 - b. Churches.
- (5) *Private Clubs:* One parking space for each five members, plus one space for each three employees.
- (6) *Private Recreational Facilities:* One parking space for each 400 square feet of gross floor area. Notwithstanding the provisions of section 21-385(a), at the discretion of the Village Council up to 50 percent of the required number of parking spaces may be provided by the utilization of a

stabilized sodded grass alternative surface. Such sodded grass alternative surface shall conform to Village specifications for base material, drainage and species of grass.

(Ord. No. 169, § 7-4, 6-29-74; Ord. No. 171, § 1, 11-30-74; Ord. No. 404, § 3, 10-24-95)

Sec. 21-385. - Design and maintenance.

- (a) *Paving.* All areas used for parking and maneuvering of vehicles, including all access driveways, shall be paved with a dustless, all-weather surfacing material capable of carrying a wheel load of 4,000 pounds.
- (b) *Maintenance.* All areas shall be maintained in a clean, orderly and dustfree condition at the expense of the Owner or lessee.
- (c) *Drainage.* All Parking Areas and access driveways shall be graded and drained so as to provide for the disposal of all surface water.
- (d) *Marking.* Individual stalls shall be marked with permanent lines, four to six inches wide.
- (e) *Bumper guards and wheel stops.* Every parking facility shall have bumper guards located adjacent to any Building or Structure, wall, fence, hedge, walkway, landscaped area, property line or parking stall, to protect Persons, Property, and other vehicles. Bumper guards and wheel stops may be removable.
- (f) *Lighting.* Adequate lighting shall be provided if off-street parking facilities are to be operated during hours of darkness after 6:00 p.m. The lighting shall be arranged and installed so as to reflect light away from adjacent Structures, premises, or Streets.
- (g) *Separation between parking spaces and dwelling served.* All parking spaces shall be separated from any exterior dwelling unit wall. In the Ocean Front (OF) and Business (B) Districts, the separation shall be at least six feet in width and shall be unpaved and landscaped.
- (h) *Driveway location.* Each access driveway shall be located on the Lot which it serves and designed so as to cause the least practical interference with the use of adjacent Property and with the movement of pedestrian or vehicular traffic.
- (i) *Driveway width.* In the Ocean Front (OF) and Business (B) Districts, access driveway widths shall have the following minimum dimensions:
 - (1) A minimum of 12 feet for all one-way driveways; one-way driveways shall not exceed 15 feet in width.
 - (2) A minimum of 20 feet for all two-way driveways; two-way driveways shall not exceed 30 feet in width.
- (j) *Number of driveways.* In the Ocean Front (OF) District, there shall be no more than three driveways for each 200 feet of street frontage on any lot, and no driveway shall be located closer than 20 feet to any side Lot Line.
- (k) *Turnaround areas.* All parking areas shall be arranged so that a vehicle shall not be required to enter a Street to move from one location to any other location within the parking facility.
- (l) *Maneuvering and parking stall accessibility.*
 - (1) All parking facilities shall be arranged so that parking maneuvers can be accomplished without driving, maneuvering or encroaching into or upon any public right-of-way, walkway, or unpaved landscaped area within or adjoining the parking facility.
 - (2) All parking stalls shall open directly upon a maneuvering or turnaround area, an access driveway, or an aisle leading to an access driveway, and shall be individually and continuously accessible, except as permitted in tandem parking.
- (m) *Tandem parking.* Tandem parking is a parking layout in which one or more automobiles must be moved in order to retrieve another automobile. Where tandem parking is employed, shall be permitted

~~provided that the tandem parking is not more than two stalls in depth, that~~ full-time parking attendants are ~~provided~~required, and ~~that no self-parking is~~shall be permitted, ~~and tandem parking must not be more than two stalls in depth~~. The restrictions of this paragraph, requiring parking attendants and prohibiting self-parking, shall not apply if the tandem parking spaces which restrict access to one another are assigned to the same occupancy or dwelling unit, in accordance with a restrictive covenant filed in the official records of Miami-Dade County, Florida and approved as to legal form and sufficiency by the Village Attorney. Where tandem parking is employed in a Special Business Improvement Area, spaces shall not be limited to a two stall depth, but shall meet all other requirements for the Special Business Improvement Area.

- (n) *Ramps.* A maximum grade of five percent shall be permitted for sloped portions of sloping floor garages where ramps provide direct access to stalls. Interfloor ramps and ramps to and from the established Grade of any Street shall not exceed 12 percent, and no parking shall be permitted directly off these ramps.
- (o) *Minimum dimensions.* The following table provides the required minimum dimensions of parking facilities based on the explanatory diagram:

OFF-STREET PARKING CHART

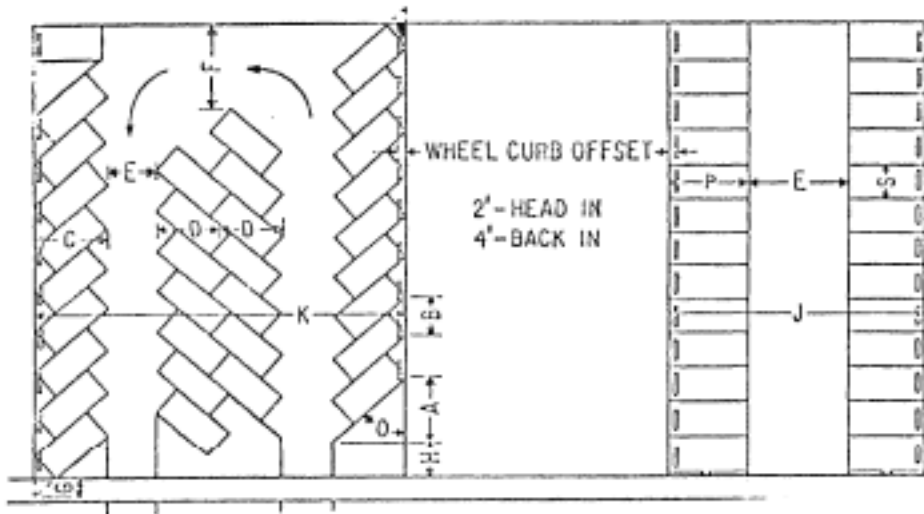


TABLE OF DIMENSIONS (IN FEET)

O	S	P	A	B	C	D	E	F	G	H	J	K
0°	8.0	22.0	0.0	22.0	8.0	8.0	12.0		0.0	0.0	28.0	
	8.0	24.0	0.0	24.0	8.0	8.0	11.0		0.0	0.0	27.0	
	8.0	26.0	0.0	26.0	8.0	8.0	10.0		0.0	0.0	26.0	
30°	9.0	19.0	30.0	18.0	17.3	13.4	9.0		13.5	6.0	43.6	
45°	9.0	19.0	19.8	12.7	19.8	16.6	10.0	16.0	6.4	9.0	49.6	92.8

	9.5	19.0	20.1	13.4	20.1	16.7	9.5	16.5	6.7	8.5	49.7	92.6
	10.0	19.0	20.5	14.1	20.4	16.9	9.0	17.0	7.0	8.0	49.8	92.6
60°	9.0	19.0	12.1	10.4	21.0	18.8	17.0	15.0	2.6	12.0	59.0	113.6
	9.5	19.0	12.3	11.0	21.3	18.9	15.5	15.0	2.8	11.5	58.1	111.4
	10.0	19.0	12.4	11.5	21.5	19.0	14.0	15.0	2.9	11.0	57.0	109.0
90°	9.0	19.0	0.0	9.0	19.0	19.0	25.0	20.0	0.0	0.0	63.0	126.0
	9.5	19.0	0.0	9.5	19.0	19.0	24.0	20.0	0.0	0.0	62.0	124.0
	10.0	19.0	0.0	10.0	19.0	19.0	23.0	20.0	0.0	0.0	61.0	122.0

(r) *Pedestrian access.*

- (1) Each principal Structure shall be provided with not less than one pedestrian accessway between the Principal Building and Collins Avenue for each 200 feet of Lot frontage or portion thereof.
- (2) Accessways shall be a minimum of four feet in width, clearly marked, and physically designed to protect pedestrians from traffic circulation in off-street parking areas and driveways.

(Ord. No. 169, § 7-5, 6-29-74; Ord. No. 448, § 1, 4-18-00)

(g) *Special Business Improvement Area.* These provisions shall supersede any other provisions in this section which may be in conflict.

(1) *Off-site location.* Within the Special Business Improvement Area, during periods of construction which temporarily reduce the availability of on-site parking, required parking may be provided on a Lot other than the Lot on which the Structure or use served is located, provided that:

(a) The number of required parking spaces located off-site shall not exceed 25 percent of the required parking.

(b) The off-site parking shall be located within reasonable walking distance of the land use served, or, if outside a reasonable walking distance, a dedicated shuttle service appropriate to the needs of the parkers at the off-site facility shall be provided, or valet parking service shall be provided on-site. An agreement assuring that the spaces will be available to the land use must be executed if the spaces are owned or controlled by a party other than the property owner of the land use served. Such agreement shall be approved as to form and content by the Village Attorney.

(2) *Permanent Parking Spaces:* 3.15 permanent parking spaces for each 1,000 square feet of occupied gross leasable area.

(3) *Flex Parking Spaces:* Recognizing the seasonal nature of population, tourism, business activity and parking demand in the Village of Bal Harbour, parking plans whereby spaces designed and normally used for self-parking may be temporarily converted to valet parking layout and operations during peak periods of activity to increase the parking ratio to 3.6 parking spaces for 1000 square feet of gross leasable area and higher may be utilized. The capacity of the parking facility in the temporary

valet parking layout shall be used in determining the adequacy of the parking supply. The temporary valet layout need not be striped or have bumper guards or wheel stops. Flex parking spaces may not be utilized for more than 6 continuous months.

(4) Ramps. A maximum grade of six percent shall be permitted for sloped portions of sloping floor garages where ramps provide direct access to stalls. Interfloor ramps and ramps to and from the established Grade of any Street shall not exceed 14 percent, and no parking shall be permitted directly off these ramps. For any ramp over 10 percent a transition ramp at least 10 feet long and at half the slope of the main ramp shall be provided.

(5) Marking. Individual stalls shall be marked with permanent lines, four to six inches wide, except plaza areas which are used for parking part-time need not be so marked and are not required to have bumper guards or wheel stops.

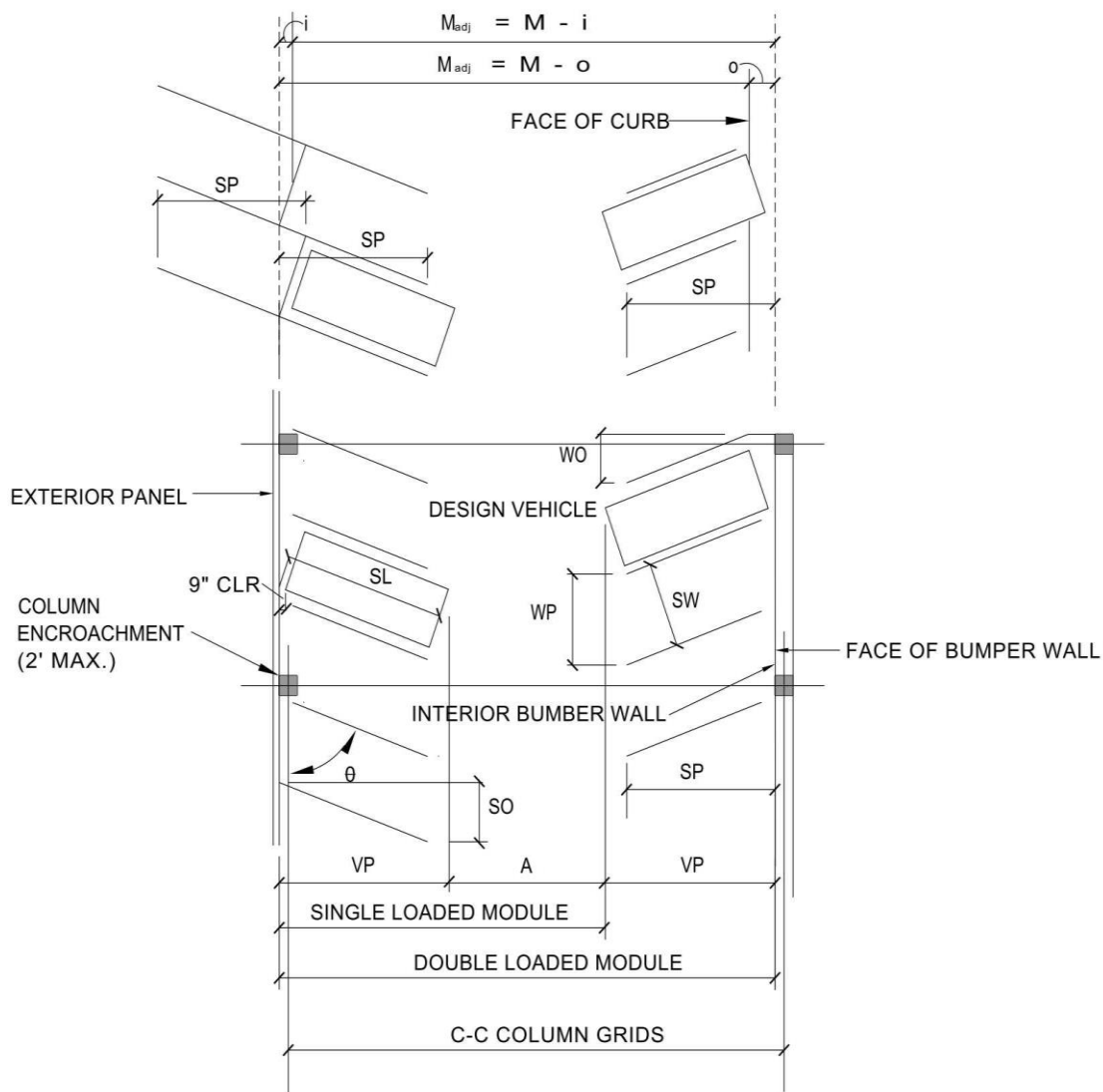
(6) Bumper guards and wheel stops. Every surface parking facility shall have bumper guards located adjacent to any Building or Structure, wall, fence, hedge, walkway, landscaped area, property line or parking stall, to protect Persons, Property, and other vehicles. Bumper guards and wheel stops may be removable.

(7) Minimum dimensions. Parking layouts shall conform to the minimum requirements of this section.

Definitions (see also Figure 1):

- Angle (θ): The angle of rotation of the stall from a position parallel to the wall or edge of the module to the desired angle of parking, in degrees.
- Stall Width Projection (WP): The running dimension parallel to the wall or module edge of a stall rotated to the associated angle. ($WP = \text{stall width} / \sin \theta$).
- Module (M): The out-to-out dimension of two rows of parked vehicles and the drive aisle between. $M = VP + A + VP$. Where single-loaded parking aisles (i.e., parking stalls on only one side of the drive aisle) are provided, then $M_{adj} = M - VP$.
- Vehicle Projection (VP): The rotation of a design vehicle 6'7" wide by 17'3" to the desired angle plus an allowance of 9" clear distance between the parked vehicle and the wall or module edge, measured perpendicular to the wall or module edge.
- Aisle (A): The drive aisle serving rows of parked vehicles. ($A = M - 2 \cdot VP$).
- Interlock (i): An adjustment of the module for a parking design which has overlapping stalls. ($i = SW / (2 \cdot \cos \theta)$). Where stalls on only one side of the aisle are interlocked, then $M_{adj} = M - i$. Where stalls on both sides of the module are interlocked, then $M_{adj} = M - 2 \cdot i$.
- Overhang (o): A dimension for the maximum permissible distance of a curb or wheel stop from the edge of the module so as to not reduce the effective dimensions below the minimum required. ($o = 2'6" / \sin \theta$).
- Wall offset (WO): The appropriate dimension to start the back end of a stall stripe from a wall, face of column or other delineation, in order to maintain the specified stall width.
- Stripe Projections (SP): The recommended maximum projection of a stripe, perpendicular to the wall or edge of module. It is not necessary or desirable to extend the stripe either to the VP or the full length of a stall rotated to the desired angle.
- Stripe offset (SO): The projection parallel to the wall or module edge of a stall stripe extending to the stripe projection; used in laying out parking stalls to be sure that parked vehicles do not encroach on adjacent spaces, such as turning bays or aisles.

Figure 1



DEFINITION OF BASIC LAYOUT DIMENSIONS

- θ = Angle of Park

M = Module

A = Aisle Width

i = Interlock

o = Overhang

SP = Stripe Projection = 16'-6"
- VP = Vehicle Projection

WP = Width Projection

SW = Stall Width

SL = Stall Length

WO = Wall Offset

SO = Stripe Offset

Table 1: Minimum Required Parking Dimensions

Angle of Parking	Stall Width	Module	Vehicle Projection	Aisle	Interlock	Overhang	Wall Offset	Stripe Offset
	9'0"	8'6"			9'0"	8'6"		

<u>Θ</u>	<u>WP</u>	<u>WP</u>	<u>M</u>	<u>VP</u>	<u>A</u>	<u>i</u>	<u>i</u>	<u>o</u>	<u>WO</u>	<u>SO</u>
<u>45</u>	<u>12'9"</u>	<u>12'0"</u>	<u>48'0"</u>	<u>17'8"</u>	<u>12'8"</u>	<u>3'2"</u>	<u>3'0"</u>	<u>1'9"</u>	<u>10'8"</u>	<u>16'6"</u>
<u>50</u>	<u>11'9"</u>	<u>11'1"</u>	<u>49'9"</u>	<u>18'3"</u>	<u>13'3"</u>	<u>2'11"</u>	<u>2'9"</u>	<u>1'11"</u>	<u>9'5"</u>	<u>13'10"</u>
<u>55</u>	<u>11'0"</u>	<u>10'5"</u>	<u>51'0"</u>	<u>18'8"</u>	<u>13'8"</u>	<u>2'7"</u>	<u>2'5"</u>	<u>2'1"</u>	<u>8'3"</u>	<u>11'7"</u>
<u>60</u>	<u>10'5"</u>	<u>9'10"</u>	<u>52'6"</u>	<u>19'0"</u>	<u>14'6"</u>	<u>2'3"</u>	<u>2'2"</u>	<u>2'2"</u>	<u>7'2"</u>	<u>9'6"</u>
<u>65</u>	<u>9'11"</u>	<u>9'5"</u>	<u>53'9"</u>	<u>19'2"</u>	<u>15'5"</u>	<u>1'11"</u>	<u>1'10"</u>	<u>2'3"</u>	<u>6'1"</u>	<u>7'8"</u>
<u>70</u>	<u>9'7"</u>	<u>9'1"</u>	<u>55'0"</u>	<u>19'3"</u>	<u>16'6"</u>	<u>1'6"</u>	<u>1'5"</u>	<u>2'4"</u>	<u>5'0"</u>	<u>6'0"</u>
<u>75</u>	<u>9'4"</u>	<u>8'10"</u>	<u>56'0"</u>	<u>19'1"</u>	<u>17'10"</u>	<u>1'2"</u>	<u>1'1"</u>	<u>2'5"</u>	<u>3'10"</u>	<u>4'5"</u>
<u>Angles of parking between 76 and 89 degrees not permitted.</u>										
<u>90</u>	<u>9'0"</u>	<u>8'6"</u>	<u>60'0"</u>	<u>18'0"</u>	<u>24'0"</u>	<u>0'0"</u>	<u>0'0"</u>	<u>2'6"</u>	<u>1'0"</u>	<u>0'0"</u>

Notes to Table 1:

- 9'0" stalls shall be used except that 8'6" stalls may be used for the following uses: residential, general business offices, data processing/telemarketing/operations offices, industrial, storage/wholesale, utility, and educational (except for spaces serving cultural/ recreational/ entertainment uses at educational campuses.)
- Dimensions may be interpolated for angles between 45 and 75 degrees.
- All dimensions based on Design Vehicle of 6'7" by 17'3", parked 9" from front of stall
- Light poles and columns may protrude into a parking module a maximum of 2 ft combined as long as they do not impact more than 25% of the stalls. For example, either a one foot encroachment on both sides of the aisle, or a 2 ft encroachment on one side only, is acceptable.
- Interlock reductions cannot be taken where there is encroachment by columns, light poles or other obstructions for more than 25% of the stalls in the bay.
- All dimensions rounded to the nearest inch.
- Aisles and corresponding modules are for two way traffic flow for 90 degree parking and one way traffic flow for angled parking between 45 and 75 degrees.
- For two-way traffic flow and angled parking, a minimum 24 ft aisle is required.
- Parallel parking stalls to be 8' by 22', with 12'0" travel lane. For parallel parking along a two-way drive, a minimum aisle of 24 ft. is required.

(4) Valet Parking Layouts: When parking spaces are employed in a permanent valet parking operation, or as temporary valet parking spaces in a Flex Parking operation as defined in this Article, they shall be not less than 8' 3" wide and the stall length shall be not less than 17' 6". The aisle widths for valet parking must provide reasonable maneuvering space for the valet operation, but need not conform to the requirements for self-parking contained in Table 1.

At least 80% of obstructed stalls must be arranged so that no more than one vehicle needs to be moved in order to retrieve another vehicle. In no case shall more than two vehicles need to be moved in order to retrieve another vehicle.

Sec. 21-386. - Screening.

- Required on certain Lots.* On any Lot in the Ocean Front (OF) District and the Business (B) District where surface parking facilities are provided, all parking facilities shall be effectively screened from any adjoining Lot and from any adjoining Street.
- Location.* Screening provided in compliance with this section shall be located on the perimeter of the parking facility, within the required Setback areas.

- (c) *Type*. Required screening shall consist of a fence, wall or appropriate Landscaping and hedges, and shall be continuous, broken only for driveways and walkways.
- (d) *Screening plan required*. A plot plan, drawn to scale, which accurately shows the type, location and amount of screening, shall be submitted to the Building Department for approval.
- (e) *Minimum height*. In the Ocean Front (OF) District and the Business (B) District, required parking facility screening shall be from three and one-half feet to six feet in height; provided, however, that in no case shall screening required by this section exceed three and one-half feet in height within fifteen feet of the nearest point of intersection of any access driveway, Street, or alley, measured at the Property line.
- (f) *Exceptions to height requirements*.
 - (1) *Parking facility above Grade*. Where the surface of the parking facility is raised more than four feet above the center of the adjoining Street, the required screening shall not be less than three feet in height nor more than six feet in height, measured from the finished Grade of the parking facility.
 - (2) *Parking facility below Grade*. Where the surface of the parking facility is below the ground level of the adjoining Property, the required screening shall be not less than four and one-half feet in height above the ground level of the adjoining Property.
- (g) *Visibility*. All screening shall be at least 80 percent opaque when viewed horizontally.
(Ord. No. 169, § 7-6, 6-29-74; Ord. No. 207, § 2, 2-27-79)

Sec. 21-387. - Landscaping.

- (a) *Applicability of section*. For parking facilities with more than ten parking spaces, the Landscaping requirements set out in this section shall apply.
- (b) *Interior Landscaping*. For surface parking facilities, at least ten percent of the parking facility shall be permanently landscaped. The interior Landscaping requirement shall be computed on the basis of the Net Parking Facility. For the purposes of this section, "Net Parking Facility" shall include parking stalls, access drives, aisles, walkways, dead spaces, and required separations from Structures, but shall not include required Street Setbacks or access driveways for walkways within such Setbacks.
- (c) *Planting beds*. All Landscaping shall be contained in planting beds. Each planting bed shall have a minimum width of four feet and a minimum area of 25 square feet and shall be enclosed by concrete or masonry curbing at least four inches wide and six inches in height above the paving surface.
Planting beds within the Special Business Improvement Area are not required to be enclosed by concrete or masonry curbing.
- (d) *Plant material*.
 - (1) Surface parking facilities shall contain at least one tree for each 1,000 square feet of required parking area. In addition to required trees, each planting bed shall contain appropriate ground cover or shrubbery.
 - (2) Nonplant material such as statuary or fountains may be used in landscaped areas provided it does not dominate the planting bed.
- (e) *Sprinkler system; maintenance*. Landscaping installed shall be provided with complete sprinkler systems, and continuously maintained.
- (f) *Plot plan*.
 - (1) All required plot plans for parking facilities shall contain detailed Landscaping plans. Landscaping plans shall be prepared by Persons authorized under F.S. ch. 481, part II, to prepare Landscaping plans.
 - (2) The Landscaping plan shall be drawn to an accurate scale and shall include:

- a. The location and size of planting beds.
- b. The location and variety of all plant material to be used.
- c. The location and type of sprinkler system to be provided.

(Ord. No. 169, § 7-7, 6-29-74; Ord. No. 297, § 7, 10-28-86)

Secs. 21-388—21-405. - Reserved.

ARTICLE VI. - OFF-STREET LOADING FACILITIES

Sec. 21-406. - Location of berths; screening.

- (a) All loading berths shall be located on the same zoning Lot as the use served. All loading berths shall be completely screened by building walls, a uniformly painted solid fence, wall, or door, or any combination thereof, or landscaping not less than eight feet in height.
- (b) No permitted or required loading berth shall be located within 30 feet of the nearest point of intersection of any two Streets.
- (c) No loading berth shall be located in a required front Setback area. Any loading berth located in a required side Setback area may be open to the sky, provided it is effectively screened from the abutting Lot.

(Ord. No. 169, § 8-1, 6-29-74)

Sec. 21-407. - Size of berths.

Unless otherwise specified in this chapter, an off-street loading berth shall be at least 12 feet in width by at least 30 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 15 feet.

(Ord. No. 169, § 8-2, 6-29-74)

Sec. 21-408. - Access.

Each off-street loading berth shall be designed with appropriate means of vehicular access in a manner which will least interfere with traffic movement, and shall be subject to approval by the Building Department.

(Ord. No. 169, § 8-3, 6-29-74)

Sec. 21-409. - Surfacing of open berths.

All open off-street loading berths shall be surfaced with a dustless all-weather material capable of bearing a live load of 200 pounds per square foot.

(Ord. No. 169, § 8-4, 6-29-74)

Sec. 21-410. - Use of loading and parking facilities for vehicle repair, service.

No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading or parking facilities.

(Ord. No. 169, § 8-5, 6-29-74)

Sec. 21-411. - Space allocated for off-street loading use not to be used to satisfy parking facilities requirements.

Space allocated to any off-street loading use shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

(Ord. No. 169, § 8-6, 6-29-74)

Sec. 21-412. - Number of berths.

- (a) *Hotels*. For Buildings containing 10,000 to 200,000 square feet of gross floor area, one off-street loading berth shall be provided, plus one additional loading berth for each additional 200,000 square feet of gross floor area or fraction thereof.
- (b) *Multiple-Family Dwellings*. For Buildings containing 20,000 to 200,000 square feet of gross floor area, one off-street loading berth shall be provided, plus one additional loading berth for each additional 200,000 square feet of gross floor area or fraction thereof.

(Ord. No. 169, § 8-7, 6-29-74)

Secs. 21-413—21-425. - Reserved.

ARTICLE VII. - BOATS, WATERWAYS, BEACHES AND DOCKING FACILITIES

DIVISION 1. - GENERALLY

Secs. 21-426—21-435. - Reserved.

DIVISION 2. - MARINAS

Sec. 21-436. - Prohibitions, restrictions.

New boat basins shall be prohibited. Marinas and other multi-slip docking facilities shall use docks extending out to water no less than four feet deep at mean low tide, and dredging for marinas or multi-slip docking facilities shall be restricted to limited channels for launching boats or changes to existing boat basins to correct environmental problems.

(Ord. No. 356, § 6(8a.1), 11-13-90)

Sec. 21-437. - New marinas and multi-slip docking facilities.

New marinas and multi-slip docking facilities shall conform to the following criteria:

- (1) Public use marinas shall be allowed only in the Business (B) Zoning District;
- (2) Nonpublic use marinas or multi-slip docking facilities shall be allowed only in Residential Zoning Districts and then only if use of docking facilities are limited to use by residents;
- (3) Marinas and multi-slip docking facilities must provide vehicular parking and sewage pumpout facilities;
- (4) All parking, dry storage, and non-water dependent facilities must be built on existing uplands;
- (5) Marinas and multi-slip docking facilities shall prepare hurricane plans which describe measures to be taken to minimize damage to marina sites, neighboring properties, and the environment; this hurricane plan shall be reviewed and approved by the Emergency Management/Building Inspector;
- (6) Marina or multi-slip docking facilities shall comply with the other pertinent policies of the comprehensive master plan;
- (7) Fueling facilities associated with marinas shall be designed to contain spills from on-land equipment and shall be prepared to contain spills in the water.

(Ord. No. 356, § 6(8a.2), 11-13-90)

Secs. 21-438—21-445. - Reserved.

DIVISION 3. - BEACH AND COASTAL CONSTRUCTION CONTROL LINE

FOOTNOTE(S):

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Cross reference— Buildings and building regulations, ch. 6. [\(Back\)](#)

Sec. 21-446. - Prohibition of habitable structures.

Construction of new habitable structures seaward of the coastal construction control [line] shall be prohibited.

(Ord. No. 356, § 7(8b.1), 11-13-90)

Sec. 21-447. - Structures allowed seaward of the coastal construction control line.

Construction of ancillary nonhabitable structures such as pools, cabanas, tennis courts, etc., shall be allowed seaward of the coastal construction control line provided such structures are designed either to be sacrificed to intense storms or constructed withstand wave forces on the order of 1,000 psi and provided all necessary permits are obtained from agencies having jurisdiction over that area.

(Ord. No. 356, § 7(8b.2), 11-13-90)

Sec. 21-448. - Reconstruction or repair of the existing groin field and bulkheads.

Reconstruction or repair of the existing groin field and bulkheads in Bal Harbour Village shall be allowed, subject to all permitting requirements. Construction of any new groins or bulkheads seaward of the construction control line shall be prohibited.

(Ord. No. 356, § 7(8b.3), 11-13-90)

Sec. 21-449. - Prohibition of vehicular traffic.

Vehicular traffic on the beach and in primary dunes and shall be prohibited, unless a permit is obtained from the Village Manager.

(Ord. No. 356, § 7(8b.4), 11-13-90)

Sec. 21-450. - Coastal high-hazard area defined.

The coast high-hazard area shall encompass the velocity zones on the Flood Insurance Rates Maps and the areas seaward of the coastal construction control line.

(Ord. No. 356, § 7(8b.4), 11-13-90)

Sec. 21-451. - Limitation on Village-funded facilities.

Village-funded facilities shall not be built in the coastal high-hazard area, unless the facility is for public access or resource restoration.

(Ord. No. 356, § 7(8b.5), 11-13-90)

Sec. 21-452. - Public access.

Existing access for the public to the beach shall be maintained by any new development or redevelopment. New beachfront development shall show on the site plan existing beach access ways, and the proposed development shall continue that access way, relocate it on the site, or donate it to the Village.

(Ord. No. 356, § 7(8b.6), 11-13-90; Ord. No. 473, § 3, 6-18-02)

Sec. 21-453. - Parking for public access.

All future public access facilities shall include parking facilities, wherever feasible.

(Ord. No. 356, § 7(8b.7), 11-13-90)

Secs. 21-454—21-459. - Reserved.

ARTICLE VIII. - DOG FRIENDLY DINING

Sec. 21-460. - Purpose and intent; program created; definitions.

- (a) The purpose and intent of this part is to implement the pilot program established by F.S. (2006) § 509.233, by permitting public food service establishments located within the B Business District of Bal Harbour Village, Florida, subject to the terms and conditions contained herein, to become exempt from certain portions of the United States Food and Drug Administration Food Code, as amended from time to time, and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of their respective establishments.
- (b) Pursuant to F.S. § 509.233(2), there is hereby created in Bal Harbour Village, Florida, a local exemption procedure to certain provisions of the United States Food and Drug Administration Food

Code, as amended from time to time, and as adopted by the State of Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, in order to allow patrons' dogs within certain designated outdoor portions of public food service establishments, which exemption procedure may be known as the Bal Harbour Village Dog Friendly Dining Program.

- (c) As used in this article, hereof:

Division means the Division of Hotels and Restaurants of the State of Florida Department of Business and Professional Regulation.

Dog means an animal of the subspecies *Canis lupus familiaris*.

Outdoor area means an area adjacent to a public food service establishment that is predominantly or totally free of any physical barrier on all sides and above.

Patron has the meaning given to "guest" by F.S. § 509.013.

Public food service establishment has the meaning given it by F.S. § 509.013.

(Ord. No. 519, § 2, 5-15-07)

Sec. 21-461. - Permit required; submittals.

- (a) In order to protect the health, safety, and general welfare of the public, a public food service establishment is prohibited from having any dog on its premises unless it is located in the B Business District and it possesses a valid permit issued in accordance with this part.
- (b) Applications for a permit under this part shall be made to the Building Official, on a form provided for such purpose by the Building Official, and shall include, along with any other information deemed reasonably necessary by the Building Official in order to implement and enforce the provisions of this part, the following:
- (1) The name, location, and mailing address of the subject public food service establishment.
 - (2) The name, mailing location, and telephone contact information of the permit applicant.
 - (3) A diagram and description of the outdoor area to be designated as available to patrons' dogs, including dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of any other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the Building Official. The diagram or plan shall be accurate and to scale but need not be prepared by a licensed design professional.
 - (4) A description of the days of the week and hours of operation that patrons' dogs will be permitted in the designated outdoor area.
 - (5) A statement that the subject public food service establishment is located in the B Business District.
 - (6) All application materials shall contain the appropriate division issued license number for the subject public food service establishment.
- (c) Upon receipt of a complete application, the Building Official shall place the permit application on the next available Council agenda for consideration by the Council, accompanied by a report and recommendation of the Building Official for approval or denial and any appropriate conditions which are recommended to be attached to any Council approval. The Council shall either issue or deny the permit based upon whether it finds that the intent, purposes and conditions of this Section shall be met. The Council may impose additional or other conditions upon any permit granted hereunder.

(Ord. No. 519, § 2, 5-15-07)

Sec. 21-462. - General regulations; cooperation; enforcement.

- (a) In order to protect the health, safety, and general welfare of the public, and pursuant to F.S. § 509.233, all permits issued pursuant to this part are subject to the following requirements:
- (1) All public food service establishment employees shall wash their hands promptly after touching, petting, or otherwise handling any dog. Employees shall be prohibited from touching, petting, or otherwise handling any dog while serving food or beverages or handling tableware or before entering other parts of the public food service establishment.
 - (2) Patrons in a designated outdoor area shall be advised that they should wash their hands before eating. Waterless hand sanitizer shall be provided at all tables in the designated outdoor area.
 - (3) Employees and patrons shall be instructed that they shall not allow dogs to come into contact with serving dishes, utensils, tableware, linens, paper products, or any other items involved in food service operations.
 - (4) Patrons shall keep their dogs on a leash at all times and shall keep their dogs under reasonable control.
 - (5) Dogs shall not be allowed on chairs, tables, or other furnishings.
 - (6) All table and chair surfaces shall be cleaned and sanitized with an approved product between seating of patrons. Spilled food and drink shall be removed from the floor or ground between seating of patrons.
 - (7) Accidents involving dog waste shall be cleaned immediately and the area sanitized with an approved product. A kit with the appropriate materials for this purpose shall be kept near the designated outdoor area.
 - (8) At least one sign reminding employees of the applicable rules, including those contained in this part, and those additional rules and regulations, if any, included as further conditions of the permit by the Village Council, shall be posted in a conspicuous location frequented by employees within the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8 ½ x 11) and printed in easily legible typeface of not less than 20-point font size.
 - (9) At least one sign reminding patrons of the applicable rules, including those contained in this part, and those additional rules and regulations, if any, included as further conditions of the permit by the Village Council, shall be posted in a conspicuous location within the designated outdoor portion of the public food service establishment. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8 ½ x 11) and printed in easily legible typeface of not less than twenty (20) point font size.
 - (10) At all times while the designated outdoor portion of the public food service establishment is available to patrons and their dogs, at least one sign shall be posted in a conspicuous and public location near the entrance to the designated outdoor portion of the public food service establishment, the purpose of which shall be to place patrons on notice that the designated outdoor portion of the public food service establishment is currently available to patrons accompanied by their dog or dogs. The mandatory sign shall be not less than eight and one-half inches in width and eleven inches in height (8 ½ x 11) and printed in easily legible typeface of not less than twenty (20) point font size.
 - (11) Dogs shall not be permitted to travel through indoor or undesignated outdoor portions of the public food service establishment, and ingress and egress to the designated outdoor portions of the public food service establishment shall not require entrance into or passage through any indoor or undesignated outdoor portion of the public food service establishment.
- (b) A permit issued pursuant to this part shall not be transferred to a subsequent owner upon the sale or transfer of a public food service establishment, but shall expire automatically upon such sale or transfer. The subsequent owner shall be required to reapply for a permit pursuant to this part if such owner wishes to continue to accommodate patrons' dogs.

- (c) In accordance with F.S. § 509.233(6), the Building Official shall accept and document complaints related to the Dog Friendly Dining Program within Bal Harbour Village, Florida, and shall timely report to the Division all such complaints and the Village's enforcement response to such complaint. The Building Official shall also timely provide the Division with a copy of all approved applications and permits issued pursuant to this part.
- (d) Any public food service establishment that fails to comply with the requirements of this part shall be guilty of violating this part of the Bal Harbour Village Code and shall be subject to any and all enforcement proceedings consistent with the applicable provisions of the Bal Harbour Village Code and general law. Each day a violation exists shall constitute a distinct and separate offense.

(Ord. No. 519, § 2, 5-15-07)